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नई दिल्ली, शनिवार, अक्टूबर 14, 1978/ आश्विन 22, 1900

No. 41]

NEW DELHI, SATURDAY, OCTOBER 14, 1978/ASVINA 22, 1900

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके

Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ राज्य क्षेत्र प्रशासनों को छोड़कर)

केन्द्रीय प्राधिकारियों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications issued by the Ministries of the Government of India
(other than the Ministry of Defence) by Central Authorities
(other than the Administrations of Union Territories)

ELECTION COMMISSION OF INDIA

New Delhi, the 28th September, 1978

S.O. 3000.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the order of the High Court of Judicature, Andhra Pradesh, dated 16 August, 1978 in Election Petition No. (S.R. 29682 of 1978).

[No. 82/AP/78]

By order,

T. NAGARATHNAM, Secy.

IN THE HIGH COURT OF JUDICATURE, ANDHRA
PRADESH AT HYDERABAD

ORDINARY ORIGINAL CIVIL JURISDICTION

Wednesday, the sixteenth day of August One thousand and
nine hundred and seventy eight,

677GI/78—1

PRESENT :

The Honourable Mr. Justice GANGADRA RAO

APPLICATION NO. 47 OF 1978

in

Election Petition No. (S. R. 29682 of 1978) sought to be
presented to the High Court.

Kasim Ali Abid

.....PETITIONER

VS.

1. G. Mallikarjuna Rao
2. Mohammed Kamaluddin Ahmed
3. K. Damodar Reddy.
4. N. Laxminarayana
5. Dr. Swamy T. S. Devanand

.....RESPONDENTS.

Application under Section 151 of C.P.C. that this High Court may be pleased to condone the delay in representing the E. P. (S. R. 29682/78) sought to be presented to the High Court (1) to press orders for inspection, Scrutiny and re-count of all the votes polled in 39 Warangal Parliamentary

(2793)

constituency Andhra Pradesh, Hyderabad. (2) That the election of the 1st respondent to the Parliament (Lok Sabha) from Warangal 39 Parliamentary Constituency be declared void, (3) that the petitioner be declared as having been duly elected to the Parliament from 39 Warangal Parliamentary Constituency, (4) the costs of the petition be awarded, (5) and any other relief or reliefs may be awarded to the petitioner under the circumstances of the case.

This application coming on for hearing on Monday the 31st day of July 1978, on Tuesday the 1st day of August 1978, and this day upon perusing the application and the affidavit filed in support thereof, and the counter and reply affidavits filed therein and upon hearing the arguments of Mr. P. Babul Reddy, Advocate for the applicant and of Mr. V. Raja Gopala Reddy advocate for the 1st respondent, and the respondents 2 to 5 not appearing in person or by Advocate, the court made the following :—

ORDER : Sri Kasim Ali Abid (the petitioner), Sri Gandhi Mallikarjunarao (1st respondent), Mohammad Kamaluddin Ahmed (2nd respondent), Kondapalli Damodar Reddy (3rd respondent), Nalla Lakshminarayana (4th respondent) and Dr. Swamy T. S. Devanand (5th respondent) contested for the membership of the Lok Sabha from the Parliamentary Constituency 39-Warangal in the election held on 25th February, 1978. The petitioner contested the election as the candidate of the Janata Party, the 1st respondent as the candidate of the Indian National Congress, the 2nd respondent as the candidate of Congress (I), and the other respondents as Independents. The results of the election were declared on 29th February, 1978. The 1st respondent secured 1,55,545 votes and the petitioner secured 1,43,269 votes. The 2nd respondent secured 1,16,354 votes. The other candidates secured lesser number of votes. Therefore, the 1st respondent was declared elected. He had a margin of 2,276 votes over the petitioner. The petitioner filed an Election Petition for recount, and also to declare that the election of the 1st respondent was void, and to declare him as having been elected from that constituency. He filed the Election Petition in the High Court on 11th April 1978. It was filed within time. Since it was not in order it was not numbered. Only S.R. No. 29682/1978 was given. On 20th April, 1978, the High Court office returned the petition with the following objections :—

- “(1) Age of respondents to the noted in the long cause title.
- (2) Blanks in the affidavit to be filled up duly attested by the Notary.
- (3) Documents which the petitioner relies upon to be filed with a list in the proforma.
- (4) 7 more copies of petition and affidavit duly certified by the petitioner to be filed as notices have to go through Court and also by registered post acknowledgement case.
- (5) In the copies of petition and affidavit the petitioner should sign in full noting the same as a true copy.
- (6) Batta of Rs. 41.25 to be paid (double batta).
- (7) Covers, acknowledgement forms and docket duly filled in to be filed.”.

It was represented by the counsel for the petitioner, Sri G. Mahipal Reddy on 9th June, 1978 without complying with any of the objections.

It was again returned by the office on 13th June, 1978 stating that all the objections should be complied with. On 23rd June, 1978 it was represented by the learned counsel for the petitioner with the following endorsement :—

- “(1) Correct age of the respondents is not known, nor given in the Election Notification.
- (2) Complied.
- (3) No documents.
- (4) Complied.
- (5) Advocate has signed the true copies.
- (6) Batta paid.
- (7) Complied.”

Strangely enough that endorsement is not signed by the advocate for the petitioner. Thereafter, on 23rd June, 1978 the petitioner filed application No. 47/1978 to condone the

delay of 56 days in representing the Election petition. In the affidavit filed in support of that application, the petitioner has stated that since he was out of station and could not contact his advocate in time, there was delay in complying with the objections, and the delay was neither wilful nor wanton and, therefore, the delay in representing the S.R. might be condoned. When that petition came up before me, I directed notice to the respondents.

The 1st respondent appeared through his advocate, Sri Vada Rajagopala Reddy, filed a counter and contested the matter. The 1st respondent submitted that the application was not attested before the Magistrate, Notary or Oaths Commissioner as required under the rules framed by the High Court, and therefore, it was defective. He also stated that the affidavit was vague and did not contain any particulars, and the delay was not properly explained. He stated that when there are five respondents in the Election Petition, only three copies were filed and the petitioner has not attested the copies as true copies of the petition under his own signature. Therefore, he submitted that the petition should be dismissed under section 86 of the Representation of the People Act, 1951, for non compliance with the provisions of Section 81(3) of the said Act. He also contended that the petitioner has not signed the annexures filed along with the Election Petition as required under Section 83(2) of the Act and the annexures form an integral part of the Election Petition.

The petitioner filed an additional affidavit giving better particulars as to how the delay was occasioned in representing the Election petitioner. He stated that after entrusting the case to Sri Mahipal Reddy, he left Hyderabad to New Delhi to attend to organisational work of All India Muslim Conference, of which he happened to be the General Secretary from the year 1974. He is also President of the All India Muslim Backward Classes Federation. While leaving to New Delhi, he requested his counsel to attend promptly to any requirements that were necessary for the numbering of the Election Petition. Due to pressing work in connection with his organisational work he was held up at New Delhi. Meanwhile, he came to understand that the High Court was closed for summer vacation from 21st April, 1978 to 5th June, 1978. During that period he was at Hyderabad only for a few days and when he contacted his advocate to know the stage of the Election Petition, he was informed that the Court was in vacation, and he need not worry and his counsel would take care of the Election Petition. He left Hyderabad for New Delhi on 3rd June, 1978 and returned to Hyderabad on 13th June, 1978. When he contacted his counsel, he was informed that the Election Petition was represented on 9th June, 1978, that it was again returned on 13th June, 1978 and that his counsel would be representing it in the Court. His Counsel asked some information with regard to the age of some of the respondents. Again when he contacted his advocate on 22nd June, 1978, the latter asked him to sign the affidavit and he signed it as required by him. He stated that he was not well acquainted with the Court procedure. When he came to know that there was delay, he enquired his counsel, Sri Mahipal Reddy as to how it had happened but he was not communicative. Therefore, he engaged another advocate to conduct the Election Petition. He also wanted to examine himself as a witness to explain these facts.

Sri G. Mahipal Reddy, the learned counsel for the petitioner also filed an affidavit stating that the Election Petition was returned on 20th April, 1978, and it had to be submitted on 23rd April, 1978 after compliance, but since it was a Sunday, it could be submitted on 24th April, 1978. He went to the concerned section of the High Court after coming to know that the papers were returned on 20th April, 1978. He was told that the papers could not be returned till the vacation was over. After the vacation was over, he took back the papers on 5th June, 1978 and represented them on 9th June, 1978. The petitioner went to New Delhi on 3rd June, 1978 and returned only on 13th June, 1978 and thereafter, he could not comply with the objections on 9th June, 1978. The petitioner contracted him on 13th June, 1978, and he instructed him to get the age particulars of all respondents and his clerk-cum-typist to make some more copies of the petition and affidavit to comply with objection No. 4. He got the petition represented on 23rd June, 1978. He further stated that he was not doing well and bed-ridden from 26th May, 1978 till 4th June, 1978 and with great difficulty he could go to court on 5th June, 1978 to take return of papers filed by him. Thus, the delay was occasioned partly due to the petitioner's inability to get in touch with him, and partly due to his ill-health.

In reply the 1st respondent filed an additional counter-affidavit stating that no reason was given by the petitioner for not giving these particulars earlier, and the additional affidavit is filed only to fill up the lacuna in the earlier affidavit. He stated that even in the present affidavit the petitioner has not given the particulars about his stay at Hyderabad and New Delhi from 11th April, 1978 to 23rd June, 1978. He submitted that the petitioner has not shown any reason for not representing the election petition within three days of the return after meeting all the objections, and the reasons given by him for the delay are not tenable and convincing. He is stated that the petitioner could have complied with the objections during the few days he stayed at Hyderabad between 21st April, 1978 and 5th June, 1978, and even on 13th June, 1978 when he returned from New Delhi he should have taken steps to represent the petition. No reasons are given for not complying with the objections atleast from 13th June, 1978 till 23rd June, 1978. The petitioner was a Member of Parliament since 1972, and he cannot be heard to say that he was ignorant of the procedure in a Court of law.

The Application was posted for hearing to 31st July, 1978. The petitioner examined himself as P.W.1. He had deposed that along with the original Election Petition six more copies were filed in the court and he had signed in the accompanying affidavit, and also in the annexures filed along with the Election Petition. After preparing the Election Petition, in consultation with his advocate, he went to New Delhi on 8th April, 1978, since he was retiring from Rajya Sabha on 9th April, 1978. Till 20th April 1978 he was at Delhi. On 20th April, 1978 he returned to Hyderabad. He enquired his friend, M.A. Rahum about the stage of the Election Petition and he was informed that his counsel, Sri Mahipal Reddy was sick. He met Sri Mahipal Reddy on the night of 20th April, 1978. He told him that the office had raised some objections, they are minor, and they could be rectified at the office level itself. He told him that he would represent the Election Petition on 23rd April, 1978. His friend, Mr. M. A. Rahum told him that the papers were represented but they were returned again. This he was informed 2 or 3 days after 20th April, 1978. His Counsel told him that he went to court on 25th to take return of the papers, but they were not returned because of the vacation. On 1st or 2nd May, 1978 he met his counsel and requested him to represent the petition on the re-opening day. On 3rd June, 1978 he went to New Delhi and returned to Hyderabad on 13th June, 1978. On 14th June, 1978 he met Sri Mahipal Reddy who informed him that he was sick, and he could not rectify the objections and so returned the papers formally on 9th to save time and he would represent papers after complying with the objections. Then he came to know that 23rd or 24th June, 1978 the petition was represented. Sri Mahipal Reddy asked him to give an affidavit to condone the delay in representing the petition and, accordingly, he gave the affidavit, Ex. A-1. It was drafted by his advocate. Sri Mahipal Reddy continues to be sick. So, round about 15th or 20th June, 1978, he engaged Sri P. Babul Reddy and Sri Koti Reddy as his advocates to conduct the petition. The Vakalat given to Shri Koti Reddy dated 27th July, 1978, is marked as Ex. A-2. He stated that what he had stated before is a mistake. The additional affidavit given by him on 27th July, 1978 is marked as Ex. A-3. In the cross-examination he was asked that, if he went to Delhi on 8th April, 1978 and returned to Hyderabad only on 20th April, 1978 he could not have signed the Election Petition and the affidavit in support of the Election Petition on 11th April, 1978. He replied that he returned to Hyderabad on 10th night or 11th morning of April, 1978 to file the Election Petition that he filed the Election Petition, and on 13th or 14th April, 1978 he went to Delhi and again returned to Hyderabad on 20th April, 1978. He admitted that he did not state in his additional affidavit, Ex. A-3 that he returned to Hyderabad on the 10th or 11th April, 1978 and presented the Petition on 11th April, 1978 and again went to Delhi. He stated that between 21st April, 1978 and 5th June, 1978 he was at Hyderabad for about ten days, and he contacted his advocate, Sri Mahipal Reddy, who told him that the papers were returned, but he could not take them since the High Court office section refused to hand over the petition to him. He admitted that in his additional affidavit Ex. A-3 or the original affidavit, Ex. A-2 he did not say that Sri Mahipal Reddy was sick. He admitted that he did not state in his additional affidavit that Mahipal Reddy told him on 20th April, 1978 that he would represent the petition on 23rd April. He went by Plane and train to Delhi on all these occasions. He stated that he could produce the tickets purchased with his money, but he could not produce the tickets purchased at parliament expenses. He produced

the Indian Airlines ticket, Ex. A-4 which shows that he went to Delhi on 10th June, 1978 and returned to Hyderabad on 15th June, 1978. He stated that from 13th June, 1978 till 23rd June, 1978 he did not represent the Election Petition because he was getting the relevant necessary particulars. His advocate told him that he had filed six copies along with the Election Petition. He denied the suggestion that only three copies were filed along with the Election Petition. The true copies of the Election Petition filed on 11th April, 1978 are signed by Sri Veera Setti, Advocate on record along with Sri Mahipal Reddy, and they are marked as Exs. A-5 to A-7. Ex. A-1 was not attested before a Notary or Oaths Commissioner, but it was attested before an advocate. He has stated that he signed it on 23rd June, 1978, but the advocate has signed it on 26th June, 1978. He denied the suggestion that he was negligent in attending to the Election Petition and that his advocate, Sri Mahipal Reddy was not sick.

Since there was controversy as to the number of copies that were filed along with the Election Petition, Sri K. P. Venugopal, who was then the Section Officer, in the Original Side Section, and who checked the Election Petition was examined as Court witness. He deposed that the Election Petition was received in his Section on 12th April, 1978. He examined the petition. Six copies of the petition, affidavit and annexures were filed along with the petition. As per the rules framed by the High Court since the copies should be double the number of the respondents, plus two more copies, seven more copies were asked for. From 1st May, 1978 he was promoted as Assistant Registrar and thereafter he did not handle the bundle. In cross-examination he has stated that the words 'six copies' on the Election Petition is in his hand writing. He stated that he had noted only the number of copies already filed, but it was not necessary for him to state in addition the number of copies that had to be filed. He denied, the suggestion that he had not made the entries six copies, on the Election Petition, but it was made subsequently by somebody. On verifying the bundle in the court he stated that he could find only three copies of the Election Petition bearing the date 11th April, 1978 and six copies of the annexures bearing the same date. He could not give any reason as to how the other copies of the petition were missing in the bundle.

Then, I heard the arguments. Sri Vada Rajagopala Reddy, the learned counsel for the 1st respondent has submitted that the Election petition and the Application to condone the delay in representing the Election Petition should be dismissed for the following reasons:—(1) The petitioner has filed only three copies, but not five copies along with the Election Petition and, therefore, there is non-compliance of Section 81(3) of the Representation of the People Act, 1951. (2) Under Section 81(3) of the Act, every copy of the Election Petition should be attested by the petitioner under his own signature to be a true copy of the petition. In this case the copies and the annexures filed along with the election petition were not attested by the petitioner under his own signature. They were initialled by Sri Veera Setti, his advocate. (3) Under Section 83(2) of the Act, any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition. In this case, the petitioner has not signed the seven annexures filed along with the Election Petition, but he only verified them. (4) Under the Original Side Rules of the High Court all affidavit should be attested before a Magistrate, Notary or Oaths Commissioner. In this case the affidavit in the delay excuse Application (I.A. No. 47/1978 was attested only before an advocate, and that too is defective because, while the petitioner has affirmed on 23rd June, 1978 the advocate signed it on 22nd June, 1978. (5) The delay in representing the petition is not satisfactorily explained and, therefore, it should not be condoned.

Sri P. Babul Reddy, appearing for the petitioner has submitted that six copies of the Election Petition were filed along with the Election Petition and there is compliance with the first part of sub-section (3) of Section 81 of the Act. He contended that the second part of sub-section (3) of Section 81 of the Act, that every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition is only directory and not mandatory and even otherwise, there is substantial compliance of that provision, because the advocate for the petitioner had signed the copies. He submitted that if the annexures were not signed by the petitioner, it is only an irregularity and the election petition cannot be dismissed on that ground. Similarly, if the original affidavit of the petitioner was not attested before a Magistrate, it is only an irregularity. Lastly he submitted that the delay in representing the petition was satisfactorily explained, and even if there was negligence on the part of the petitioner's

counsel. Sri Mahipal Reddy, the petitioner should not be pained, and the delay in representing the petition should be condoned.

I will deal with these questions seriatim. Section 81(3) of the Representation of the People Act, 1951 (hereinafter referred to as 'the act') provides that every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition. In this case, there are five respondents. So, the petitioner should file five copies along with the election petition. In exercise of the powers conferred by clause 37 of the Letters Patent of the High Court of Madras, section 32 of the Andhra State Act, 1953, Section 129 of the Code of Civil Procedure, 1908, and all other powers hereunto enabling the High Court of Andhra Pradesh framed Rules to regulate the trial of Election Petitions under Representation of the People Act, 1951 (hereinafter referred to as 'the Rules'). Rule 3 provides, that in addition to the number of copies required by sub-section (3) of Section 81 of the Act, the petitioner shall file two more copies of the petition for court record. After the Election petition is numbered, under Rule 6 the petitioner should furnish as many extra copies of the petition as there are respondents to be served along with the notice by registered post. Thus, the petitioner should file five copies under Section 81 (3), two copies under Rule 3, and five copies under Rule 6, in all twelve copies. In this case, the Election petition was returned by the High Court office on 20th April, 1978. One of the objections raised was that, seven more copies of the petition and affidavit duly certified by the petitioner should be filed as notices have to go through court and also be registered post with acknowledgement due. This objection was raised by the High Court office, bearing in mind, the total number of copies the petitioner had to file under Section 81(3) and Rules 3 and 6. It means, the petitioner had filed five copies along with the Election Petition. Sri. K. P. Venugopal, the then Section Officer in the Original Side Section of the High Court, who was examined as a Court Witness, had deposed that six copies of the petition, affidavit and annexures were filed along with the Election Petition. He also endorsed the words 'six copies' on the Election Petition. I have no reason to disbelieve his evidence. I have also verified the record. There are thirteen copies of the Election Petition. It is only three of them bear the date stamp of 11th April, 1978, and at the same time six annexures bear the date stamp of 11th April, 1978. It is improbable to say that the petitioner would have filed only copies of annexures, but not copies of the Election Petition. This circumstance probabilises the version of the petitioner and also the evidence of Shri Venugopal and six copies were filed along with the Election Petition. The fact that three copies did not bear the date stamp of 11th April, 1978 need not mean that six copies were not filed. May be that all the six copies were not stamped. I, therefore, reject the contention of the 1st respondent that five copies of the Election Petition were not filed as required under sub-section (3) of section 81 and, therefore, the Election Petition should be dismissed.

It is true that the copies filed along with the election Petition were not attested by the petitioner under his own signature to be true copies of the petition. They were merely intailed by Sri Veera Setti, the advocate for the petitioner as 'true copies'. Sub-section (3) of Section 81 provides that, every Election Petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition, and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition. Admittedly, in this case, the copies were not attested by the petitioner under his own signature to be true copies of the petition. The learned counsel for the 1st respondent has submitted that the provision is mandatory, and when it is not complied with, the Election Petition should be dismissed under Section 86. On the other hand, Sri P. Babulu Reddy, the learned counsel for the petitioner has submitted that the second part of sub-section (3) of section 81 is not mandatory, but only directory, and it is sufficient if there is substantial compliance with that section. He argued that under section 83(1)(c) of the Act, an Election Petition has to be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings, and if it is not so signed or verified, the Election Petition cannot be dismissed under Section 86, for Section 86 provides, that the High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117, but not section 83. He submitted that it is an indication to show that the second part of sub-section (3) of Section 81 is not mandatory.

Now I will refer to some of the relevant decisions cited by the learned counsel for both the parties. In CH. SUBBARAO V. MEMBER ELECTION TRIBUNAL (1), AIR 1964 S.C. 1027 the copies filed along with the Election petition bore two signatures in original of the Election Petitioner authenticating both the contents of the petition as well as the verification thereof. The petitioner did not, however, insert the words "true copy" before or above his signature. When it was contended that it was not an Election Petition, since the requirements of Section 81(3) of the Act were not complied with, the Supreme Court observed, that under Section 81(3) filing the requisite number of copies is a condition precedent for the proper presentation of an Election Petition, and no distinction could be drawn between the requirements of sub-section (1) and (2) and sub-section (3). They held that if there is non-compliance with the requirements of sub-section (3), the Election Petition should be dismissed. They left open the question whether any part of section 81(3) was directory or mandatory. On the facts of that case, the Supreme Court held that there was substantial compliance with the requirements of Section 81(3).

In DR. ANUP SINGH V. ABDUL GHANI AIR 1965 SC 815, necessary number of copies were filed and each copy bore the signature of the petitioner, concerned. They were true copies of the original, but the attestation as required by Section 81(3) was not there specifically on the copies. Relying upon the decision in Subba Rao v. Member Election Tribunal (AIR 1964 SC 1027) the Supreme Court observed in that case that there was substantial compliance with section 81(3) and the petition could not be dismissed.

In SATYA NARAIN V. DHUJA RAM AIR 1964 SC 1185, the requisite spare copies of the Election Petition as required by Section 81(3) were not filed along with the Election Petition within the period of limitation. The question for consideration was whether section 81(3) was mandatory, and if so, whether non-compliance of the same would vitiate the Election Petitioner with the penalty of dismissal of his petition under section 86(1) of the Act. The Supreme Court held that the right to challenge an election was a special right conferred under a self-contained special law and the court would have to seek answer to the questions raised within the four corners of the Act, and the powers of the Court are circumscribed by its provisions. They stated that it was not a common law right and the election petition could not be equated with a plaint in a civil suit. With reference to the decision in Ch. Subba Rao v. Member Election Tribunal (AIR 1964 SC 1027—1964—6 SCR 213) they observed that in view of the peculiar circumstances of that case and the nature of the defect it was held that section 81(3) was substantially complied with and left open the wider question whether Section 81(3) or any part thereof, was mandatory or directory. They also observed that one of the important objections of the Act was the expeditious disposal of an election petition. Finally they held that the first part of section 81(3) was a peremptory provision and total non-compliance with the same would entail dismissal of the election petition under section 86 of the Act. It is true that in that case the Supreme Court was not concerned with the second part of sub-section (3) of section 81.

In M. KAMALAM V. V. A. S. MOHAMMED AIR 1978 SC 840 the second part of sub-section (3) of Section 81 directly fell in for consideration. In that case, the signature of the appellant who filed the election petition by way of authentication appeared at the foot of the copy of the affidavit, but there was no such signature separately appended at the foot of the copy of the Election Petition. The respondent raised a preliminary objection against the maintainability of the Election Petition and contended that since the copy of the Election Petition was not attested by the appellant under his own signature to be a true copy, there was non-compliance with sub-section (3) of section 81, and hence, the election petition was liable to be dismissed under section 86(1) of the Act. While dealing with that question, in paragraph 3 at page 843 after referring to Section 86, Bhagwati, J., speaking for the Court observed that, "there can be no doubt that if the election petition of the appellant did not comply with the last part of sub-section (3) of section 81, the High Court was justified in dismissing the election petition under section 86, sub-section (1) : in fact, it had no other option but to do so". Then they discussed the question whether the appellant failed to comply with section 81. On the facts of that case, they held that the affidavit was an integral part of the election petition, and since the appellant had placed the signature at the foot of the copy of the affidavit, there was sufficient compliance with the requirement of the last

part of sub-section (3) of section 81. They observed that, in those circumstances, the signature of the appellant must be regarded as having been appended on the copy of the election petition. Finally they held that the requirement of the last part of sub-section (3) of section 81 was complied with by the appellant in as much as the copy of the election petition was authenticated to be a true copy by the appellant by placing her signature at the foot of the copy of the affidavit which formed part of the copy of that election petition. In view of the decisions of the Supreme Court in SATYA NARAIN V. DHUJA RAM SUPRA and in M. Kamalam V. V.A.S. Mohammed Supra (particularly the observations made in paragraph 3 which I have extracted above) I hold that, if the election petition does not comply with the last part of sub-section (3) of section 81, I have no option but to dismiss the petition under sub-section (1) of section 86 of the Act. Therefore, I reject the contention of the learned counsel for the petitioner that the second part of sub-section (3) of section 81 is not mandatory. Even otherwise he argued, relying on the same decisions, that is sufficient if there is substantial compliance with the second part sub-section (3) of Section 81. He submitted that the copies were initialled by the Advocate for the petitioner, Sri M. Veera Setti, and when an advocate signs, it is really the signature of the party, for the acts for the party and, therefore, there is substantial compliance with the sub-section. I am not able to agree with this submission. In M. KAMALA M. V. V. A. S. MOHAMMED Supra, on facts, the Supreme Court held that the copies were authenticated by the appellant therein as true copies by placing his signature at the foot of the copies of the affidavit. But, that is not the case here. The petitioner did not attest the copies under his own signature to be true copies of the petition. On the other hand they are only initialled by his advocate Sri M. Veera Setti. I cannot consider the initials of an advocate as attestation by the petitioner as required by sub-section (3) of section 81. If a copy could also be attested by an advocate, the legislature would have said so. Therefore, I hold that the election petition has to be dismissed under Section 86 of the Act for non-compliance with the second part of sub-section (3) of section 81. That will dispose of the matter. Nevertheless, I propose to deal with the other objections, for my finding on the second contention may be wrong, and also since the counsel for both the parties have advanced arguments with regard to the other objections.

Next it was submitted by the learned counsel for the 1st respondent that the petitioner has not signed the annexures to the election petition but he had only verified them, as required by Sub-section (2) of section 83, and therefore, the petition should be dismissed. It was submitted by the learned counsel for the petitioner that they do not form an integral part of the election petition. The petitioner has filed seven annexures along with the election petition. The annexures are referred to in the election petition. A reading of the petition shows that they form an integral part of it. Sub-section (2) of Section 83 provides, that any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition. In this case, the petitioner has not signed the annexures, but he only verified them. At the same time he has signed the election petition and also the affidavit accompanying the election petition, of which the annexures form an integral part. In these circumstances I hold that there is substantial compliance with the provisions of sub-section (2) of Section 83. Even otherwise, for the non-compliance of that provision an election petition cannot be dismissed under section 86 of the Act. Therefore, I negative this contention.

Next it was argued that the affidavit of the petitioner filed in the application No. 47/1978 for condoning the delay in representing the Election Petition was not attested before a Magistrate, Notary or an oaths Commissioner, as required under the original Side Rules of the High Court. It is true that the affidavit is attested before an advocate. But it is only an irregularity. On that score I cannot dismiss the Application for condoning the delay in representing the election petition. It was also contended by the learned counsel for the 1st respondent that the attestation by the advocate was not true, because while it was signed by the petitioner on 23rd June, 1978, the attestation by the advocate was on 22nd June, 1978. I think, it must be a mistake on the part of the advocate, while putting the date and I am not prepared to attach much importance to this mistake.

The last contention of the learned counsel for the 1st respondent is that, in any event, there are absolutely no grounds to condone the delay in representing the petition.

In order to appreciate this contention, it is necessary to refer to Rules, 4, 5 and 6. Under Rule 4, the petitioner or his advocate shall appear on the third day of presentation of the Election Petition to meet the objections, if any that may be raised by the office. He shall represent the Election Petition within three days of its return, after meeting all the objections. Under Rule 5, every Election Petition, when examined and found to be in order, will be numbered and posted before the Judge for orders. If the petition is not dismissed under Section 86 of Act, notice will be issued to the respondents. Rule 6 provides, that notice to the respondent shall be sent through the Nazarat of the Subordinate Court exercising jurisdiction over the area where the respondent to be served is residing or is carrying on business. Notice shall also be sent to the address of the respondent given in the Election Petition by means of registered post acknowledgement prepaid. The petitioner should furnish extra copies of the petition to be served along with the notice by registered post. No extra process fees, except postal charges would be recovered for sending notices through post.

Evidently, these rules are made bearing in mind that an Election Petition should be disposed of as expeditiously as possible, particularly in view of sub-section (7) of Section 86 of the Act, which says that endeavour should be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial. In this case, the petitioner filed the Election Petition on 11th April, 1978. It was returned by the office on 20th April, 1978 raising seven objections. They are minor ones. The High Court was closed for the summer vacation on 24th April, 1978, and reopened on 3rd June, 1978. Strangely enough, the petitioner did not represent the petition on the reopening date. He had six weeks vacation at his disposal to comply with these objections. On 9th June, 1978 he simply represented the petition without complying with any of the objections. It was once again returned by the office on 13th June, 1978 asking the petitioner to comply with all the objections. On the same day, he also filed application No. 47/1978 to condone the delay of 56 days in representing the Election Petition. The affidavit filed by the petitioner in support of that application is bald one. He merely stated that he went out of station and he could not contact his advocate in time, and thus, there was delay in complying with the office objections. No particulars are given. After the first respondent filed a counter, the petitioner came forward with an additional affidavit on 27th July, 1978. In that he has stated that he left to New Delhi to attend to organisational work of All India Momin Conference of which he happened to be the General Secretary, and he was held up at New Delhi, and meanwhile he came to know that the High Court was closed for summer vacation. He stated that he was at Hyderabad for a few days between 21st April, 1978 and 5th June, 1978 when the High Court was closed for summer vacation. He stated that when he contacted his advocate, he was informed that he need not worry and he would take care of the Election Petition. He again left Hyderabad for New Delhi on 3rd June, 1978 and returned on 13th June, 1978. When he contacted his advocate he was informed that the petition was returned on 13th June, 1978 for compliance with the objections and he would represent it in the Court, and he asked for some information with regard to the ages of some of the respondents. When he contacted him again on 22nd June, 1978, he was asked to sign the affidavit for filing it in the Court. Thus, even in this affidavit, he was not stated as to when he first left to New Delhi and when he had returned to Hyderabad. He has not also given the dates when he was at Hyderabad during summer vacation. He examined himself as P.W. 1. He has deposed in chief-examination that after preparing and signing the Election Petition he left to Delhi on 8th April, 1978, since he was retiring from Rajya Sabha on 9th April, 1978 and he was at Delhi till 20th April, 1978 and on 20th April, 1978 he returned to Hyderabad, and he met his counsel on the same night. But he was informed that the office has raised some minor objections and they would be rectified and the petition would be represented on 23rd April, 1978. Evidently, the petition was not represented after complying with the objections on 21st April, 1978 or 22nd April, 1978. 23rd April, 1978 was a Sunday. He further deposed that his friend, M. A. Rahim Saheb told him that the papers were represented, but they were not returned again. It is not true. He again stated that 2 or 3 days after 20th April, 1978 Rahim Saheb told him that they went to court to take return of the papers, but they were not returned because of the vacation. That statement is not also true because the Election Petition was returned on 20th April, 1978. That is

evident from the endorsement on the Election Petition the stamp of the High Court bearing that date. He stated that on 1st or 2nd May, 1978 he met his counsel Sri Mahipal Reddy and requested him to represent it on the reopening day. It is not his case that he was not at Hyderabad from 23rd or 24th April, 1978. He could have easily complied with the objections before 1st or 2nd May, 1978, but he did not do it. On 3rd June, 1978 he went to Delhi and returned to Hyderabad on 13th June, 1978. In proof of it he has filed the Air India ticket. Here I may state that he has not filed any document to show that he left to Delhi on 8th April, 1978 and returned on 20th April, 1978, or that he was at Delhi from 8th April, till 20th April. In the cross-examination when he was questioned as to how he could sign the affidavit on 11th April, 1978 when he went to Delhi on 8th April, 1978 and returned only on 20th April, 1978. He stated that he returned to Hyderabad on 10th night or 11th morning, filed the Election Petition and on 13th or 14th April, 1978 he again went to Delhi and returned on 20th April. This is an improvement upon what he had stated in the chief-examination. He did not adduce any evidence to show that he returned to Hyderabad on 10th night or 11th morning and went to Delhi on 13th or 14th April. He could produce the tickets which he purchased with his own money, though he could not produce the tickets which he had purchased at Parliament expense. He had admitted in the chief-examination that he has retired from Rajya Sabha on 9th April, 1978. If so, even assuming that he had returned on 10th night or 11th morning at Parliament expense, he could not have gone to Delhi on 14th April and returned to Hyderabad on 20th April at Parliament expense. Further he says that he was at Hyderabad for about ten days between 21st April, 1978 and 5th June, 1978. If so, it is not shown as to why he had not chosen to comply with the objections raised by the office. In his evidence he alleges that his counsel, Sri Mahipal Reddy was not feeling well and that is one of the grounds for not meeting the objections and representing the Election Petition in time. But, he did not say in his original affidavit or in the additional affidavit that Sri Mahipal Reddy was sick during that period. The Indian Airlines return ticket, Ex. A-4 shows that he went to Delhi on 3rd June, 1978 and returned to Hyderabad on 13th June, 1978. Therefore, I believe that he was at Delhi during that period. But from 13th June, 1978 till 23rd June, 1978 he did not represent the Election Petition, because he says, he was getting the relevant necessary particulars. I do not understand what relevant particulars he was securing for ten days. The only particulars he had to get was about the ages of the respondents to be noted in the long cause title. Admittedly, he did not get any particulars about their ages. While representing the Election Petition he had endorsed on it that their ages were not known. In these circumstances, I have no hesitation in holding that the petitioner was very negligent in attending to the Election Petition. His counsel, Sri Mahipal Reddy has also filed an affidavit stating that he went to the High Court office on coming to know that the papers were returned on 20th April, 1978, and he was informed that they would not be returned till the vacation was over. He did not mention the date as to when he went to the High Court office. The Election Petition shows that, in fact, it was returned on 20th April, 1978. He has stated that he has taken back the papers on 5th June, 1978 and represented them on 9th June, 1978 without complying with the objections because the petitioner had gone to Delhi on 3rd June, 1978, and returned only on 13th June, 1978. He has stated that the petitioner contacted him on 13th June, 1978 and he instructed him to get the age particulars of the respondents and ultimately, he had represented the petition on 23rd June, 1978. Even then, I do not understand as to why he should take ten days for getting these particulars. The only particulars required were the ages of the respondents, but they were not even secured. He further stated that he was not doing well and bed-ridden from 26th May, 1978 till 4th June, 1978. Even assuming it to be true, he could have still complied with these minor objections in his office through another counsel, Veera Setti, and represented the petition on the re-opening day, 3rd June, 1978. Thus, Sri Mahipal Reddy, the learned counsel for the petitioner was equally negligent. I am not at all satisfied with the explanation given by the petitioner or his counsel. Sri Mahipal Reddy for the delay of 56 days in representing the Election Petition.

Sri P. Babulu Reddy, relying upon the decision in THUMU GOVARDHANA RAO & OTHERS V. BULINENI RAMACHANDRAIAH (1960) 1 An. W.R. 422 has submitted that the petitioner should not be penalised for the mistake com-

mitted by his advocate, when he had acted bona-fide on the advice given by his lawyer, and when he did not give a false excuse. He also referred to SHIB DAYAL V. JAGANATH AIR 1922 Allahabad 490(FB) where it was held, that an honest though a negligent mistake about High Court practice by a pleader in the mufassil, was held to be a sufficient cause for extending the period of limitation under section 5 of the Limitation Act.

On the other hand, the learned counsel for the 1st respondent has relied upon AMARNATH V. MUR RAJ AIR 1975 P & H 246(FB) and submitted that 'sufficient cause' means which is beyond the control of the party, and the test whether or no: a cause is sufficient is to see whether it is a bona-fide cause, in as much as nothing shall be taken to be done bona-fide or in good faith which is not done with due care and attention. He also relied upon the decision in SHANGARAM NARASIMLU V. JANGAM ISTALIAH (8) (1957) 11 An. W.R. 557, where, Ansari, L., held, "that the negligence of an agent in filing an appeal is no ground for condoning the delay under section 5 of the Indian Limitation Act". On the facts of that case, the learned Judge held, that the conduct of the appellant's advocate was not free from blemish and was a negligent one, and the long delay could not be condoned.

On the facts of this case I hold that both the petitioner as well as his counsel, Sri Mahipal Reddy were negligent in not complying with the objections raised by the office. The explanation given by them for not complying with the objections for so long, is far from satisfactory. Particularly when an Election Petition has to be disposed of as expeditiously as possible, in view of Section 86(7) and Rule 4, I cannot take a lenient view of the matter as in a suit and condone the delay. Hence, I dismiss the Application No. 47/1978.

In the result, Application No. 47/1978 and the Election Petition S.R. No. 29682/1978 are dismissed with costs of the 1st respondent, Advocate's fee Rs. 250/-.

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

Application No. 47 of 1978.
MEMORANDUM OF COSTS.

Respondent (No 1's) cost	Rs. P.
Stamp for Vakalatnama	5-00
Advocate's fee as fixed by the Court to be paid by the Petitioner to the Respondent No. 1,	250-00
(Rupees Two Hundred and Fifty five only).	

NOTE:—The Office is directed to refund the Security deposit after paying Advocate's fee and the costs of the first respondent.

Sd/-
A. T. M. HASAN,
Assistant Registrar (J-III)
Assistant Registrar.

प्ररूप आ० 2

प्रादेश

नई दिल्ली, 26 सितम्बर, 1978

का० प्रा० 3001.—निर्वाचन आयोग को यह समाधान हो चुका है कि जून, 1977 में हुए विधान सभा के लिए साधारण/उप-निर्वाचन के लिए पंजाब के 14—वरका (अ० जा०) निर्वाचन-क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री हरभजन सिंह, सी-183, गजनरल विजय सिंह नगर, भूमतसर (पंजाब) लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदधीन बनाए गए नियमों द्वारा अपने निर्वाचन व्ययों का लेखा दाखिल करने में प्रसफल रहे हैं।

और, उक्त उम्मीदवार ने, उसे सम्बन्ध सूचना दिये जाने पर भी, अपनी इस असफलता के लिए कोई कारण प्रस्तुत नहीं किया है, और, निर्वाचन आयोग को यह भी समाधान हो गया है कि उसके पास इन अनकम्पली के लिए कोई पर्याप्त कारण या व्यावहारिकता नहीं है।

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग द्वारा एतद्वारा उक्त श्री हरभजन सिंह को संसद् के किसी भी सदन के या किसी राज्य की विधान-सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं० पंजाब वि०सं०/14/77]

आदेश से,
वी० नागसुब्रमनियन, सचिव

ORDER

New Delhi, the 26th September, 1978

S.O. 3001.—Whereas the Election Commission is satisfied that Shri Harbhajan Singh, C-183-General Bikram Singh Nagar, Amritsar (Punjab) who was a contesting candidate for general election to the Legislative Assembly from 14—Verka (SC) held in June, 1977 has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after the due notice has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Harbhajan Singh to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. PB-1A/14/77]

By order,

V. NAGASUBRAMANIAN, Secy.

वित्त मंत्रालय

(व्यय विभाग)

नई दिल्ली, 26 सितम्बर, 1978

क्र० आ० 3002.—राष्ट्रपति, संविधान के अनुच्छेद 309 के परन्तु और अनुच्छेद 148 के खण्ड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय लेखापरीक्षा और लेखा विभाग में कार्य कर रहे व्यक्तियों के संबंध में नियंत्रक और महालेखापरीक्षक से परामर्श करने के पश्चात् माधारण भविष्य निधि (केन्द्रीय सेवा), नियम 1960 में और संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात्:—

1. (1) इन नियमों का नाम माधारण भविष्य निधि (केन्द्रीय सेवा) छठा संशोधन नियम, 1978 है।

(2) ये 10 अगस्त, 1974 को प्रवृत्त हुए समझे जाएंगे।

2. माधारण भविष्य निधि (केन्द्रीय सेवा) नियम, 1960 में नियम 4 में, द्वितीय परन्तु और उससे नीचे के स्पष्टीकरण के स्थान पर निम्नलिखित परन्तु और स्पष्टीकरण रखे जाएंगे, अर्थात्:—

“परन्तु यह और कि किसी ऐसे स्थापना या कारखाने का, जिसे कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम 1952 (1952 का 19) के अधीन विरचित कर्मचारी भविष्य निधि स्कीम 1952 के उपबन्ध लागू होंगे या यदि उक्त अधिनियम की धारा 17 के अधीन छूट न दी गई होती तो लागू होते अस्थायी सरकारी सेवक माधारण भविष्य निधि में उस दशा में अभिवाय करेगा यदि

उसने ऐसे स्थापन या कारखाने में या किसी ऐसे अन्य स्थापन या कारखाने में, जिसे उक्त अधिनियम लागू होता है, उसी नियोजक या भागतः एक और भागतः दूसरे नियोजक के अधीन छह मास की निरंतर सेवा पूरी कर ली है या छह मास या उससे कम की अवधि के दौरान कम से कम 120 दिन वस्तुतः काम किया है।”

स्पष्टीकरण:—इस नियम के प्रयोजन के लिए “निरंतर सेवा” का वही अर्थ होगा जो कर्मचारी भविष्य निधि स्कीम, 1952 में है, और 120 दिन के काम की अवधि की संगणना उक्त स्कीम में त्रिनिविष्ट रीति से की जाएगी और उसे नियोजक प्रमाणित करेगा।

व्यावसायिक तालमेल

सामान्य भविष्य निधि (केन्द्रीय सेवाएं) नियम, 1960 में संशोधन जो कि तारीख 8 जून, 1976 के पूर्वोक्त सां० आ० 2231 के अधीन अधिसूचित किया गया था, 10 अगस्त, 1974 के भारत के राजपत्र के भाग II, खंड 3, उप-खंड (i) में प्रकाशित भारत सरकार, श्रम मंत्रालय की अधिसूचना संख्या जी० एस० आर० 871 के परिणामस्वरूप किया गया है। यह जी० एस० आर० 871, 10 अगस्त, 1974 से प्रभावी है लेकिन सामान्य भविष्य निधि (केन्द्रीय सेवाएं) नियम, 1960 के संशोधन को भूल से, सरकारी राजपत्र में इसके प्रकाशन की तारीख से, अर्थात् 3 जुलाई, 1976 से प्रभावी किया गया था। इस भूल का अब उक्त संशोधन द्वारा सुधार कर लिया गया है। इस संशोधन की भूल-लक्षी प्रभाव देने से किसी अधिकारी पर कोई प्रतिकूल प्रभाव पड़ने की संभावना नहीं है।

[सं० फा० 21(1)ई V (बी)/77]

सीता राम अग्रवाल, अवर सचिव

MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 26th September, 1978

S.O. 3002.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution, the President after consultation with the Comptroller and Auditor-General in relation to persons serving in the Indian Audit and Accounts Department, hereby makes the following rules further to amend the General Provident Fund (Central Services) Rules, 1960, namely:—

1. (1) These rules may be called the General Provident Fund (Central Services) sixth Amendment Rules, 1978.

(2) They shall be deemed to have come into force on the 10th day of August, 1974.

2. In the General Provident Fund (Central Services) Rules, 1960, in rule 4, for the second proviso and the Explanation thereunder, the following proviso and Explanation shall be substituted, namely:—

“Provided further that a temporary Government servant, who is born on an establishment or factory to which the provisions of Employees Provident Funds Scheme, 1952, framed under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) would apply or would have applied but for the exemption granted under section 17 of the said Act, shall subscribe to the General Provident Fund if he has completed six months' continuous service or has actually worked for not less than 120 days during a period of six months or less in such establishment or factory or in any other establishment or factory to which the said Act applies, under the same employer or partly in one and partly in the other.

Explanation—For the purpose of this rule “continuous service” shall have the same meaning assigned to it in the Employees' Provident Fund Scheme, 1952, and the period of work for 120 days shall be computed in the manner specified in the said scheme and shall be certified by the employer.

EXPLANATORY MEMORANDUM

The amendment to the General Provident Fund (Central Services) Rules, 1960 notified under No. F. 13 (5)-EV(B)/76 dated 8th June, 1976 was consequential to the notification of the Government of India in the Ministry of Labour No. GSR 871 published in the Gazette of India, Part II, Section 3, Sub-section (i) dated 10th August, 1974. This GSR 871 is effective from 10th August, 1974 but the amendment to the General Provident Fund (Central Services) Rules, 1960 was erroneously given effect from the date of its publication in the official gazette i.e. 3rd July, 1976. This error has now been rectified by the above amendment. No officer is likely to be adversely effected by this retrospective amendment.

[No. F. 21(1)EV(B)/77]

S. R. AGRWALA, Under Secy.

वित्तिक कार्य विभाग

(बैंकिंग प्रभाग)

नई दिल्ली, 27 सितम्बर, 1978

का० प्रा० 3003.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 11 की उपधारा (1) के उपबंध हिमाचल प्रदेश स्टेट को-ऑपरेटिव बैंक लिमिटेड, शिमला पर, इस अधिसूचना की सरकारी राजपत्र में प्रकाशित होने की तारीख से, 28 फरवरी, 1979 तक की अवधि के लिए लागू नहीं होंगे।

[संख्या 8-1/78-ए० सी०]

एम० पी० वर्मा, प्रवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 27th September, 1978

S.O. 3003.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (1) of Section 11 of the said Act shall not apply to the Himachal Pradesh State Co-operative Bank Ltd., Simla for the period from the date of publication of this notification in the official gazette, to 28 February 1979.

[No. 8-1/78-AC]

M. P. VARMA, Under Secy.

वाणिज्य, नागरिक पूति और सहकारिता मंत्रालय

(वाणिज्य विभाग)

प्रावेश

नई दिल्ली, 7 अक्टूबर 1978

का० प्रा० 3004.—शुल्क संपत्ति संगोपन अधिनियम, 1977 द्वारा संशोधित शुल्क संपत्ति अधिनियम 1968 की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्री ए० एस० दास गुप्ता, अधिष्ठाता सीमा-शुल्क तथा केन्द्रीय उत्पादन शुल्क, कलकत्ता को 1 सितम्बर, 1978 से प्राणामी

प्रावेश होने तक सहायक अधिष्ठाता, शुल्क संपत्ति, पश्चिम बंगाल के रूप में नियुक्त करती है।

[सं० 3(44)/78-ई० आई० एंड ई० पी०]

के० जी० बालमुब्रह्मण्यम, उप निदेशक

MINISTRY OF COMMERCE

CIVIL SUPPLIES AND COOPERATION

(Department of Commerce)

ORDER

New Delhi, the 7th October, 1978

S.O. 3004.—In exercise of the powers conferred by Section 3 of Enemy Property Act, 1968, as amended by the Enemy Property Amendment Act, 1977, the Central Government hereby appoints Shri A. S. Das Gupta, Superintendent of Customs and Central Excise, Calcutta as Assistant Custodian of Enemy Property, West Bengal with effect from 1st September, 1978 until further orders.

[No. 3(44)/78-EI&EP]

K. V. BALASUBRAMANIAM, Deputy Director

मुख्य नियंत्रक आयात-निर्यात का कार्यालय

प्रावेश

नई दिल्ली, 23 सितम्बर 1978

का० प्रा० 3005.—श्री पी० एन० शर्मा, उप-सलाहकार, रेलवे, भारतीय रूतबास, पेरिस, फ्रांस जिन्हें वालकम बैगन के-70 सं० बी-ए सेम्प्री 482 25 15027 के आयात लिए 18,000 रुपए का सीमा शुल्क निकासी परमिट संख्या पी/जे/3057088/एन/एमपी/67/एच/77, दिनांक 19-6-1978 प्रदान किया गया था, ने सीमा शुल्क निकासी परमिट की अनुलिपि प्रति के लिए आवेदन किया है क्योंकि मूल सीमा शुल्क निकासी परमिट खो गया है। प्रागे यह भी बताया गया है कि मूल सीमा-शुल्क निकासी परमिट किसी भी सीमा शुल्क कार्यालय में पंजीकृत नहीं कराया गया था और उसका प्रयोग नहीं किया गया था।

इस तर्क के समर्थन में, श्री पी० एन० शर्मा ने एक शपथ पत्र दाखिल किया है। उन्होंने यह बताना दिया है कि यदि सीमा शुल्क निकासी परमिट बाद में मिल जाएगा तो वह इस कार्यालय को रिकार्ड के लिए लौटा दिया जाएगा। मैं संतुष्ट हूँ कि मूल सीमा शुल्क निकासी परमिट संख्या पी/जे/3057088/एन/एमपी/67/एच/77, दिनांक, 19-6-1978 खो गया है और निवेश देता हूँ कि उन्हें एक अनुलिपि सीमा शुल्क निकासी परमिट जारी किया जाए। मूल सीमा शुल्क निकासी परमिट रद्द समझा जाए।

[मिसिल संख्या-2 (ए-5)/78-79/बीएलएस]

ए० एन० चटर्जी उप-मुख्य नियंत्रक, आयात निर्यात,

OFFICE OF THE CHIEF CONTROLLER OF IMPORTS & EXPORTS

Udyog Bhavan, New Delhi

(Baggage Licensing Section)

ORDER

New Delhi, the 23rd September, 1978

S.O. 3005.—Shri P. N. Sharma, Deputy Railway Adviser, Embassy of India, Paris, France who was granted Customs Clearance Permit No. P/J/3057088/N/MP/67/H/77 dated the 19-6-78 for Rs. 18,000 for import of a Volks Wagon-K-70 No. DA Sefie 482 2515027 has applied for a Duplicate Copy of the Customs Clearance Permit as the original CCP has been lost. It is further stated that the original CCP was not registered with any Customs House and not utilised.

In support of this connection Shri P. N. Sharma has filed an affidavit. He has undertaken to return the C.C.P. if traced later to this office for record. I am satisfied that the original C.C.P. No. P/3/3057088/N/MP/67/H/77 dated the 19-6-78 has been lost and direct that a duplicate Customs Clearance Permit should be issued to him. The original Customs Clearance Permit may be treated as cancelled.

[F. No. 2(A-5)/78-79/BLS/1547]
A. N. CHATTERJEE, Dy. Chief Controller

पेट्रोलियम मंत्रालय

नई दिल्ली, 26 सितम्बर, 1978

फा० आ० 3006.—यतः भारत सरकार की अधिसूचना द्वारा जैसा कि उसके साथ संलग्न अनुसूची में प्रदर्शित किया गया है और पेट्रोलियम पाइपलाइन (भूमि के उपयोग के अधिकार का अर्जन), अधिनियम, 1962 के खण्ड-6 के उप-खण्ड (1) के अन्तर्गत प्रकाशित किया गया है, गुजरात राज्य के अंकलेश्वर तेल क्षेत्र में उक्त परिशिष्ट भूमि में सी० टी० एफ० पिलुदरा से गुजरात शोधनशाला तक पेट्रोलियम पाइपलाइन के लिए आयोग ने उक्त बिछी हुई पाइपलाइन की मरम्मत के लिए पुनः उक्त प्रयोग के अधिकार प्रदान कर दिये हैं।

और यतः तेल एवं प्राकृतिक गैस आयोग ने उपर्युक्त नियम के खण्ड (8) में निर्दिष्ट तारीखें दिनांक 21-3-1977 से समाप्त कर दिया गया है।

अतः अब पेट्रोलियम पाइपलाइन के नियम 4 (भूमि में उपयोग के अधिकार का अर्जन) नियमावली, 1963 के अन्तर्गत सक्षम प्राधिकारी एतद्वारा उक्त तिथि को कार्य समाप्ति की तिथि अधिसूचित करते हैं।

[सं० 12016/5/77-प्रोडक्शन]

के० पी० देशपाण्डेय, गुजरात के लिए नियमावलीगत सक्षम प्राधिकारी

MINISTRY OF PETROLEUM

New Delhi, the 26th September, 1978

S.O. 3006.—Whereas by the notification of the Government of India as shown in the schedule appended thereto and issued under sub-section (1) of section 6 of the Petroleum Pipelines (Acquisition of right of users in Land) Act, 1962 the right of user has been acquired in the lands specified in the schedule appended thereto for the transport of petroleum from C.T.1. PILUDRA TO GUJARAT REFINERY in Ankleshwar oil field in Gujarat State, and whereafter the Commission has reopened the said right of user for repairing the said pipeline laid.

And whereas the Oil & Natural Gas Commission has terminated the operations referred to in section 8 of the said Act on 21-3-1977.

Now therefore under Rule 4 of the Petroleum Pipelines (Acquisition of right of user in land) Rules, 1963, the Competent Authority hereby notifies the said date as the date of termination of operation to above.

[No. 12016/5/77-Prod.]

K. V. DESHPANDE, Competent Authority
under the Act for Gujarat

ऊर्जा मंत्रालय

(कोयला विभाग)

नई दिल्ली, 27 सितम्बर, 1978

फा० आ० 3007.—केन्द्रीय सरकार ने, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 के प्रभुत्व, 677 GI/78—2

भारत सरकार के भूतपूर्व इस्पात, खान और ईंधन मंत्रालय (खान और ईंधन विभाग) की अधिसूचना सं० का० आ० 719, तारीख 20 मार्च, 1959 के अनुमरण में, ग्राम चोरधारा, थाना रामगढ़, जिला हजारीबाग में 897 बीघा भूमि की और 611 बीघा भूमि में खनिजों के खनन, खदान, बेचन, खोदाई और खोज करने, निष्कासन, उन पर कार्य करने और उन्हें डोने के सभी अधिकारों को अर्जित कर लिया है।

और राज्य सरकार प्राधिकारियों द्वारा किए गए अधिग्रहणीकरण के अनुसार ग्राम चोरधारा के गुरुदयाल महतो के पुत्र श्री मोहित लाल महतो, सोना लाल महतो के पुत्र श्री राम सेवक महतो, वैद्यनाथ महतो के पुत्र सर्वेश्वरी रामकृष्ण महतो, तुलाराम महतो, हीरालाल महतो के पुत्र सर्वेश्वरी नरमदाटी महतो, जलदाटी महतो, मोतीलाल महतो के पुत्र श्री जयमंगलाल महतो, शियालाल महतो के पुत्र श्री मोहनलाल महतो, डोमरलाल महतो के पुत्र श्री केसरलाल महतो को, उक्त अधिनियम की धारा 13 के अधीन 2.40 एकड़ भूमि के बारे में हितबद्ध व्यक्ति पाया गया था और तदनुसार उक्त अर्जित भूमि के 2.40 एकड़ क्षेत्रफल के लिए प्रतिकर का निर्धारण उनके पक्ष में किया गया था;

और उक्त अर्जित भूमि के लिए संदेय प्रतिकर की रकम सहमति द्वारा नियत नहीं की जा सकी क्योंकि प्रख्यापित प्रतिकर की रकम की पर्याप्तता के विषय में विवाद है तथा इस प्रकार प्रख्यापित रकम को हितबद्ध व्यक्तियों के सम्मति के साथ स्वीकार किया है;

अतः, अब, केन्द्रीय सरकार, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 14 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, जो हितबद्ध व्यक्तियों को संवेद्य प्रतिकर की रकम अवधारित करने के प्रयोजनार्थ एक अधिकरण सहित करती है जिसमें श्री चन्द्रशेखर सिंह, अपर जिला और सेशन न्यायाधीश रांची होंगे।

[फा० सं० 19/59/77-सी० एल० (1)]

MINISTRY OF ENERGY

(Department of Coal)

New Delhi, the 27th September, 1978

S.O. 3007.—Whereas in pursuance of the notification of the Government of India in the late Ministry of Steel, Mines and Fuel (Department of Mines and Fuel) No. S.O. 719, dated the 20th March, 1959, made under section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government has acquired the lands measuring 897 bighas and the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 611 bighas in village Chordhara, Thana Ramgarh, Hazaribagh District;

And whereas Sri Mohitlal Mahto, son of Gurudayal Mahto, Shri Ram Sewak Mahto, son of Sonalal Mahto, Sarvashri Ram Kishum Mahto, Tularam Mahto, sons of Baidyanath Mahto, Sarvashri Namdhari Mahto, Jaldhari Mahto, sons of Hiralal Mahto, Shri Jaimanglal Mahto, son of Motilal Mahto, Shri Mohanlal Mahto, son of Shealal Mahto, Shri Kesharlal Mahto, son of Domarlal Mahto of village Chordhara, were found as persons interested for compensation for an area of 2.40 acres of land under section 13 of the said Act in accordance with the authentication made by the State Government authorities and accordingly compensation for an area of 2.40 acres of the said acquisition was assessed in their favour;

And whereas the amount of compensation payable for the said acquisition could not be fixed by agreement, there being a dispute as to the sufficiency of the amount of compensation offered, and the amount so offered has been accepted by the persons interested under protest;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 14 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby constitutes a Tribunal

consisting of Shri Chandra Shekhar Singh, Additional District and Sessions Judge, Ranchi, for the purpose of determining the amount of compensation payable to the persons interested.

[No. 19(59)/77-CL(i)]

का० प्रा० 3008.—केन्द्रीय सरकार ने, कोयला वाले क्षेत्र (भर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 के अधीन, भारत सरकार के भूतपूर्व इस्पात, खान और ईंधन मंत्रालय (खान और ईंधन विभाग) की अधिसूचना सं० का० प्रा० 719, तारीख 20 मार्च, 1959 के अनुसरण में, ग्राम चोरधारा, थाना रामगढ़, जिला हजारीबाग में 897 बीघा भूमि को और 611 बीघा भूमि में खनिजों के खनन, खदान, वेधन, खोदाई और खोज करने, निष्कासन, उन पर कार्य करने और उन्हें ढोने के सभी अधिकारों को अर्जित कर लिया है।

और राज्य सरकार प्राधिकारियों द्वारा किए गए अधिग्रहणीकरण के अनुसार ग्राम चोरधारा के महा मांझी की पत्नी मु० सनी चट्टिया और बोपा मांझी के पुत्र श्री रामनाथ मांझी को, उक्त अधिनियम की धारा 13 के अधीन 0.37 एकड़ भूमि के बारे में हितबद्ध व्यक्ति पाया गया था और तदनुसार उक्त अर्जित भूमि के 0.37 एकड़ क्षेत्रफल के लिए प्रतिकर का निर्धारण उनके पक्ष में किया गया था;

और उक्त अर्जित भूमि के लिए संदेय प्रतिकर की रकम सहमति द्वारा नियत नहीं की जा सकी क्योंकि प्रस्थापित प्रतिकर की रकम की पर्याप्तता के विषय में विवाद है तथा इस प्रकार प्रस्थापित रकम को हितबद्ध व्यक्तियों ने ग्रह्यापत्ति के साथ स्वीकार किया है;

अतः, अब, केन्द्रीय सरकार, कोयला वाले क्षेत्र (भर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 14 की उपधारा (2) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, जो हितबद्ध व्यक्तियों को संदेय, प्रतिकर की रकम प्रवर्धित करने के प्रयोजनार्थ एक अधिकरण सहित करती है जिसमें श्री चन्द्रशेखर सिंह, अपर जिला और सेशन न्यायाधीश रांची होंगे।

[का० सं० 19/59/77-सी०एल०4]

S.O. 3008.—Whereas in pursuance of the notification of the Government of India in the late Ministry of Steel, Mines & Fuel (Department of Mines and Fuel), No. S.O. 719 dated the 20th March, 1959 made under section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government has acquired the lands measuring 897 bighas and the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 611 bighas in village Chordhara, Thana Ramgarh, District Hazaribagh;

And whereas Most Sanicharia w/o Mahamanjhi and Shri Ram Nath Manjhi s/o Chopa Manjhi of village Chordhara were found as persons interested for compensation for an area of 0.37 acre of lands under section 13 of the said Act in accordance with the authentication made by the State Government authorities and accordingly compensation for an area of 0.37 acre of said acquisition was assessed in their favour;

And whereas the amount of compensation payable for the said acquisition could not be fixed by agreement, there being a dispute as to the sufficiency of the amount of compensation offered and the amount so offered has been accepted by the persons interested under protest;

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 14 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby constitutes a Tribunal consisting of Shri Chandra Shekhar Singh, Additional District and Sessions Judge, Ranchi, for the purpose of determining the amount of compensation payable to the persons interested.

[F. No. 19(59)/77-CL. (iv)]

का० प्रा० 3009.—केन्द्रीय सरकार ने, कोयला वाले क्षेत्र (भर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 के अधीन, भारत सरकार के भूतपूर्व इस्पात, खान और ईंधन मंत्रालय (खान और ईंधन विभाग) की अधिसूचना सं० का० प्रा० 719, तारीख 20 मार्च, 1959 के अनुसरण में, ग्राम चोरधारा, थाना रामगढ़, जिला हजारीबाग में 897 बीघा भूमि को और 611 बीघा भूमि में खनिजों के खनन, खदान, वेधन, खोदाई और खोज करने, निष्कासन, उन पर कार्य करने और उन्हें ढोने के सभी अधिकारों को अर्जित कर लिया है।

और राज्य सरकार प्राधिकारियों द्वारा किए गए अधिग्रहणीकरण के अनुसार ग्राम चोरधारा के श्री बिहारी महतो के पुत्र सर्वश्री रामेश्वर महतो, टेकचन्द महतो उमेश्वर महतो, लखन महतो, भीखन महतो के पुत्र राजलाल महतो, अनन्त राम महतो को, उक्त अधिनियम की धारा 13 के अधीन 2.02 एकड़ भूमि के बारे में हितबद्ध व्यक्ति पाया गया था और तदनुसार उक्त अर्जित भूमि के 2.02 एकड़ क्षेत्रफल के लिए प्रतिकर का निर्धारण उनके पक्ष में किया गया था;

और उक्त अर्जित भूमि के लिए संदेय प्रतिकर की रकम सहमति द्वारा नियत नहीं की जा सकी क्योंकि प्रस्थापित प्रतिकर की रकम की पर्याप्तता के विषय में विवाद है तथा इस प्रकार प्रस्थापित रकम को हितबद्ध व्यक्तियों ने ग्रह्यापत्ति के साथ स्वीकार किया है;

अतः, अब, केन्द्रीय सरकार, कोयला वाले क्षेत्र (भर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 14 की उपधारा (2) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, जो हितबद्ध व्यक्तियों को संदेय प्रतिकर की रकम प्रवर्धित करने के प्रयोजनार्थ एक अधिकरण सहित करती है जिसमें श्री चन्द्रशेखर सिंह, अपर जिला और सेशन न्यायाधीश रांची होंगे।

[का० सं० 19/59/77-सी०एल०]

S.O. 3009.—Whereas in pursuance of the notification of the Government of India in the late Ministry of Steel Mines and Fuel (Department of Mines and Fuel) No. S.O. 719 dated the 20th March, 1959 made under section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government has acquired the lands measuring 897 bighas and the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 611 bighas in village Chordhara, thana Ramgarh, District Hazaribagh;

And whereas Sarvasbri Rameshwar Mahto, Tek Chand Mahto, Umeshwar Mahto, Lakhan Mahto sons of Sarvasbri Bihar Mahto, Ranth Lal Mahto, Anant Ram Mahto sons of Bhikhan Mahto of village Chordhara were found as persons interested for compensation for an area of 2.02 acres of lands under section 13 of the said Act in accordance with the authentication made by the State Government authorities and accordingly compensation for an area of 2.02 acres of the said acquisition was assessed in their favour;

And whereas the amount of compensation payable for the said acquisition could not be fixed by the agreement, there being a dispute as to the sufficiency of the amount offered, and the amount so offered has been accepted by the persons interested under protest;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 14 of the Coal Bearing Areas (Acquisition and Development) Act, 1957, the Central Government hereby constitutes a Tribunal consisting of Shri Chandra Shekhar Singh, Additional District and Sessions Judge, Ranchi for the purpose of determining amount of compensation payable to the persons interested.

[No. 19(59)/77-CL(ix)]

का० प्रा० 3010.—केन्द्रीय सरकार ने, कोयला वाले क्षेत्र (भर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 के अधीन भारत सरकार के भूतपूर्व इस्पात, खान और ईंधन मंत्रालय (खान

और ईंधन विभाग) की अधिसूचना सं० का०ग्रा० 719, तारीख 20 मार्च, 1959 के अनुसरण में, ग्राम चोरधारा, थाना रामगढ़, जिला हजारीबाग में 897 बीघा भूमि को और 611 बीघा भूमि में खनिजों के खनन, खदान, वेधन, खोदाई और खोज करने, निष्कासन, उन पर कार्य करने और उन्हें ढोने के सभी अधिकारों को अर्जित कर लिया है।

और राज्य सरकार प्राधिकारियों द्वारा किए गए अधिप्राणीकरण के अनुसार ग्राम चोरधारा के रमा महतो की पत्नी श्रीमती भुखली और वीरसई महतो के पुत्र श्री दीपलाल महतो और सनीचरण महतो के पुत्र श्री बाली महतो को, उक्त अधिनियम की धारा 13 के अधीन 5.01 एकड़ भूमि के बारे में हितबद्ध व्यक्ति पाया गया था और तबनुसार उक्त अर्जित भूमि के 5.01 एकड़ क्षेत्रफल के लिए प्रति कर का निर्धारण उनके पक्ष में किया गया था;

और उक्त अर्जित भूमि के लिए संदेय प्रतिकर की रकम सहमति द्वारा नियत नहीं की जा सकी क्योंकि प्रख्यापित प्रतिकर की रकम की पर्याप्तता के विषय में विवाद है तथा इस प्रकार प्रख्यापित रकम को हितबद्ध व्यक्तियों ने अभ्युपार्जित के साथ स्वीकार किया है ;

अतः, अब, केन्द्रीय सरकार, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 14 की उपधारा (2) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, जो हितबद्ध व्यक्तियों को संदेय प्रतिकर की रकम अवधारित करने के प्रयोजनार्थ एक अधिकरण सहित करती है जिसमें श्री चन्द्रशेखर सिंह, अपर जिला और सेशन न्यायाधीश रांची होंगे।

[फा० सं० 19 59/77-सी०एल० (viii)]

S.O. 3010.—Whereas in pursuance of the notification of the Government of India in the late Ministry of Steel, Mines and Fuel (Department of Mines and Fuel) No. S.O. 719, dated the 20th March, 1959 made under section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government has acquired the lands measuring 897 bighas and the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 611 bighas in village Chordhara, Thana Ramgarh, District Hazaribagh;

And whereas Most Bhukhli, W/o Rama Mahto and Shri Diplal Mahto, s/o Birsai Mahto and Shri Balo Mahto s/o Sanicharwa Mahto of village Chordhara were found as persons interested for compensation for an area of 5.01 acres of land under section 13 of the said Act in accordance with the authentication made by the State Government authorities and accordingly compensation for an area of 5.01 acres of the said acquisition was assessed in their favour;

And whereas the amount of compensation payable for the said acquisition could not be fixed by the agreement, there being a dispute as to the sufficiency of the amount of compensation offered, and the amount so offered has been accepted by the persons interested under protest ;

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 14 of the Coal Bearing Areas (Acquisition and Development) Act 1957 (20 of 1957), the Central Government hereby constitutes a Tribunal consisting of Shri Chandra Shekhar Singh, Additional District and Session Judge, Ranchi, for the purpose of determining the amount of compensation payable to the persons interested.

[No. 19(59)/77-CL (viii)]

का० ग्रा० 3011.—केन्द्रीय सरकार ने, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 के अधीन, भारत सरकार के भूतपूर्व इस्पात, खान और ईंधन मंत्रालय (खान और ईंधन विभाग) की अधिसूचना सं० का० ग्रा० 719 तारीख 20 मार्च, 1959 के अनुसरण में, ग्राम चोरधारा, थाना रामगढ़, जिला हजारीबाग में 897 बीघा भूमि को और 611 बीघा भूमि में खनिजों के खनन, खदान, वेधन, खोदाई और खोज करने, निष्कासन, उन पर कार्य करने और उन्हें ढोने के सभी अधिकारों को अर्जित कर लिया है।

और राज्य सरकार प्राधिकारियों द्वारा किए गए अधिप्राणीकरण के अनुसार ग्राम चोरधारा के धन्धू बेदिया के पुत्र श्री नन्हु बेदिया, अकाल बेदिया के पुत्र श्री जोगिया बेदिया को, उक्त अधिनियम की धारा 13 के अधीन 0.13 एकड़ भूमि के बारे में हितबद्ध व्यक्ति पाया गया था। और तबनुसार उक्त अर्जित भूमि के 0.13 एकड़ क्षेत्रफल के लिए प्रतिकर का निर्धारण उनके पक्ष में किया गया था;

और उक्त अर्जित भूमि के लिए संदेय प्रतिकर की रकम सहमति द्वारा नियत नहीं की जा सकी क्योंकि प्रख्यापित प्रतिकर की रकम की पर्याप्तता के विषय में विवाद है तथा इस प्रकार प्रख्यापित रकम को हितबद्ध व्यक्तियों ने अभ्युपार्जित के साथ स्वीकार किया है ;

अतः, अब, केन्द्रीय सरकार, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 14 की उपधारा (2) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, जो हितबद्ध व्यक्तियों को संदेय प्रतिकर की रकम अवधारित करने के प्रयोजनार्थ एक अधिकरण सहित करती है जिसमें श्री चन्द्रशेखर सिंह, अपर जिला और सेशन न्यायाधीश रांची होंगे।

[फा० सं० 19/59/77-सी०एल० (vii)]

S.O. 3011.—Whereas in pursuance of the notification of the Government of India in the late Ministry of Steel, Mines and Fuel (Department of Mines and Fuel, No. S.O. 719 dated the 20th March, 1959, made under section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government has acquired lands measuring 897 bighas and the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 611 bighas in village Chordhara, Thana Ramgarh, District Hazaribagh;

And Whereas Shri Nanhu Bedia s/o Dhandhu Bedia, Shri Jogia Bedia s/o Akal Bedia of village Chordhara were found as persons interested for compensation for an area of 0.13 acre of land under section 13 of the said Act in accordance with the authentication made by the State Government Authorities and accordingly compensation for an area of 0.13 acre of the said acquisition was assessed in their favour ;

And whereas the amount of compensation payable for the said acquisition could not be fixed by agreement, there being a dispute as to the sufficiency of the amount of compensation offered, and the amount so offered has been accepted by the persons interested under protest;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 14 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby constitutes a Tribunal consisting of Shri Chandra Sekhar Singh, Additional District and Sessions judge, Ranchi, for the purpose of determining the amount of compensation payable to the persons interested.

[File No. 19(59)/77-CL (vii)]

का० ग्रा० 3012.—केन्द्रीय सरकार ने, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 के अधीन, भारत सरकार के भूतपूर्व इस्पात, खान और ईंधन मंत्रालय (खान और ईंधन विभाग) की अधिसूचना सं० का० ग्रा० 719, तारीख 20 मार्च, 1959 के अनुसरण में, ग्राम चोरधारा, थाना रामगढ़, जिला हजारीबाग में 897 बीघा भूमि को और 611 बीघा भूमि में खनिजों के खनन, खदान, वेधन, खोदाई और खोज करने, निष्कासन, उन पर कार्य करने और उन्हें ढोने के सभी अधिकारों को अर्जित कर लिया है।

और राज्य सरकार प्राधिकारियों द्वारा किए गए अधिप्राणीकरण के अनुसार ग्राम चोरधारा के मोहना उरांव के पुत्र शिवन उरांव, बन्धन उरांव की पत्नी मु० बुलिया और धनुषा उरांव की पत्नी मु० भुखनी को, उक्त अधिनियम की धारा 13 के अधीन 0.73 एकड़ भूमि के बारे में हितबद्ध व्यक्ति पाया गया था और तबनुसार उक्त अर्जित भूमि के

0.73 एकड़ क्षेत्रफल के लिए प्रतिकर का निर्धारण उनके पक्ष में किया गया था;

और उक्त अर्जित भूमि के लिए संवेय प्रतिकर की रकम सहमति द्वारा नियत नहीं की जा सकी क्योंकि प्रख्यापित प्रतिकर की रकम की पर्याप्तता के विषय में विवाद है तथा इस प्रकार प्रख्यापित रकम को हितबद्ध व्यक्तियों ने अस्थापति के साथ स्वीकार किया है;

अतः, अब, केन्द्रीय सरकार, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 14 की उपधारा (2) द्वारा प्रवक्त शक्तियों का प्रयोग करते हुए, जो हितबद्ध व्यक्तियों को संवेय प्रतिकर की रकम अवधारित करने के प्रयोजनार्थ एक अधिकरण सहित करती है जिसमें श्री चन्द्रशेखर सिंह, अपर जिला और सेशन न्यायाधीश रांची होंगे।

[फा० सं० 19/59/77-सी०एल० (iii)]

S.O. 3012.—Whereas in pursuance of the notification of the Government of India in the late Ministry of Steel, Mines and Fuel, (Department of Mines and Fuel) No. S.O. 719, dated the 20th March, 1959 made under section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government has acquired the lands measuring 897 bighas and the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 611 bighas in village Chordhara, Thana Ramgarh, District Hazaribagh;

And whereas Shri Tigan Uraon, s/o Mohna Uraon, Most Bhulia w/o Bandhana Uraon and Most Bhudhani w/o Thunua Uraon of village Chordhara were found as persons interested for compensation for an area of 0.73 acre of the land under section 13 of the said Act in accordance with the authentication made by the State Government Authorities and accordingly compensation for an area of 0.73 acre of the said acquisition was assessed in their favour;

And whereas the amount of compensation payable for the said acquisition could not be fixed by the agreement, there being a dispute as to the sufficiency of the amount of compensation offered, and the amount so offered has been accepted by the persons interested under protest;

Now, therefore, in exercise of the powers conferred by sub-section (2), of section 14 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby constitutes a Tribunal consisting of Shri Chandra Sekhar Singh, Additional District and Session Judge, Ranchi for the purpose of determining the amount of compensation payable to the persons interested.

[File No. 19(59)/77-CL. (vi)]

का०प्रा० 3013.—केन्द्रीय सरकार ने, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 के अधीन भारत सरकार के भूतपूर्व इस्पात, खान और ईंधन मंत्रालय (खान और ईंधन विभाग) की अधिसूचना सं० का०प्रा० 719, तारीख 20 मार्च, 1959 के अनुसरण में, ग्राम चोरधारा, थाना रामगढ़, जिला हजारीबाग में 897 बीघा भूमि को और 611 बीघा भूमि में खनिजों के खनन, खदान, वेधन, खोवाई और खोज करने, निष्कासन, उन पर कार्य करने और उन्हें ढोने के सभी अधिकारों को अर्जित कर लिया है।

और राज्य सरकार प्राधिकारियों द्वारा किए गए अधिग्रहणीकरण के अनुसार ग्राम चोरधारा के सोमर सहतो के पुत्र नन्दू सहतो को, उक्त अधिनियम की धारा 13 के अधीन 0.30 एकड़ भूमि के बारे में हितबद्ध व्यक्ति पाया गया था और तदनुसार उक्त अर्जित भूमि के 0.30 एकड़ क्षेत्रफल के लिए प्रतिकर का निर्धारण उनके पक्ष में किया गया था;

और उक्त अर्जित भूमि के लिए संवेय प्रतिकर की रकम सहमति द्वारा नियत नहीं की जा सकी क्योंकि प्रख्यापित प्रतिकर की रकम की पर्याप्तता के विषय में विवाद है तथा इस प्रकार प्रख्यापित रकम को हितबद्ध व्यक्तियों ने अस्थापति के साथ स्वीकार किया है;

अतः, अब, केन्द्रीय सरकार, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 14 की उपधारा (2) द्वारा प्रवक्त शक्तियों का प्रयोग करते हुए, जो हितबद्ध व्यक्तियों को संवेय प्रतिकर की रकम अवधारित करने के प्रयोजनार्थ एक अधिकरण सहित करती है जिसमें श्री चन्द्रशेखर सिंह, अपर जिला और सेशन न्यायाधीश रांची होंगे।

[फा० सं० 19/59/77-सी०एल० (v)]

S.O. 3013.—Whereas in pursuance of the notification of the Government of India in the late Ministry of Steel, Mines and Fuel (Department of Mines and Fuel) No. S.O. 719, dated the 20th March, 1959 made under section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government has acquired the lands measuring 897 gibhas and the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 611 bighas in village Chordhara, Thana Ramgarh, District Hazaribagh.

And whereas Sri Nandu Mahto s/o Somar Mahto of village Chordhara was found as person interested for compensation for an area of 0.30 acre of lands under section 13 of the said Act in accordance with the authentication made by the State Government authorities and accordingly compensation for an area of 0.30 acre of the said acquisition was assessed in his favour;

And whereas the amount of compensation payable for the said acquisition could not be fixed by the agreement, there being a dispute as to the sufficiency of the amount of compensation offered, and the amount so offered has been accepted by the person interested under protest;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 14 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby constitutes a Tribunal consisting of Shri Chandra Sekhar Singh, Additional District and Session Judge, Ranchi, for the purpose of the amount of compensation payable to Shri Nandu Mahto.

[File No. 19(59)/77-CL. (v)]

का०प्रा० 3014.—केन्द्रीय सरकार ने, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 के अधीन, भारत सरकार के भूतपूर्व इस्पात, खान और ईंधन मंत्रालय (खान और ईंधन विभाग) की अधिसूचना सं० का०प्रा० 719, तारीख 20 मार्च, 1959 के अनुसरण में, ग्राम चोरधारा, थाना रामगढ़, जिला हजारीबाग में 897 बीघा भूमि को और 611 बीघा भूमि में खनिजों के खनन, खदान, वेधन, खोवाई और खोज करने, निष्कासन, उन पर कार्य करने और उन्हें ढोने के सभी अधिकारों को अर्जित कर लिया है।

और राज्य सरकार प्राधिकारियों द्वारा किए गए अधिग्रहणीकरण के अनुसार ग्राम चोरधारा के मोषा उरांव के पुत्र श्री भाकुरा उरांव, मंगरा उरांव के पुत्र श्री विपन उरांव को, उक्त अधिनियम की धारा 13 के अधीन 0.76 एकड़ भूमि के बारे में हितबद्ध व्यक्ति पाया गया था और तदनुसार उक्त अर्जित भूमि के 0.76 एकड़ क्षेत्रफल के लिए प्रतिकर का निर्धारण उनके पक्ष में किया गया था;

और उक्त अर्जित भूमि के लिए संवेय प्रतिकर की रकम सहमति द्वारा नियत नहीं की जा सकी क्योंकि प्रख्यापित प्रतिकर की रकम की पर्याप्तता के विषय में विवाद है तथा इस प्रकार प्रख्यापित रकम को हितबद्ध व्यक्तियों ने अस्थापति के साथ स्वीकार किया है;

अतः, अब, केन्द्रीय सरकार, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 14 की उपधारा (2) द्वारा प्रवक्त शक्तियों का प्रयोग करते हुए, जो हितबद्ध व्यक्तियों

को संवेद्य प्रतिकर की रकम अवधारित करने के प्रयोजनार्थ एक अधि-करण सहित करती है जिसमें श्री चन्द्रशेखर सिंह, अपर जिला और सेशन न्यायाधीश रांची होंगे।

[फा० सं० 19/59/77-सी० एल० (iii)]

S.O. 3014.—Whereas in pursuance of the notification of the Government of India in the late Ministry of Steel, Mines and Fuel, Department of Mines and Fuel, No. S.O. 719, dated the 20th March, 1959, made under section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government has acquired the lands measuring 897 bighas and the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 611 bighas in village Chordhara, Thana Ramgarh, District Hazaribagh;

And, whereas Sri Bhakura Uraon, s/o Mogha Uraon, Shri Bipat Uraon s/o Mangra Uraon of village Chordhara were found as persons interested for compensation for an area of 0.76 acre of lands under section 13 of the Act in accordance with the authentication made by the State Government authorities and accordingly compensation for an area of 0.76 acre of the said acquisition was assessed in their favour;

And whereas the amount of compensation payable for the said acquisition could not be fixed by agreement, there being a dispute as to the sufficiency of the amount of compensation offered, and the amount so offered has been accepted by the persons interested under protest;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 14 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby constitutes a Tribunal consisting of Shri Chandra Sekhar Singh, Additional District and Session Judge, Ranchi, for the purpose of determining the amount of compensation payable to the persons interested.

[No. 19(59)/77-CL. (iii)]

का०प्रा० 3015.—केन्द्रीय सरकार ने, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 के अधीन, भारत सरकार के भूतत्पूर्व हस्तात, खान और ईंधन मंत्रालय (खान और ईंधन विभाग) की अधिसूचना सं० का०प्रा० 719, तारीख 20 मार्च, 1959 के अनुसरण में, ग्राम चोरधारा, थाना रामगढ़, जिला हजारीबाग में 897 बीघा भूमि को और 611 बीघा भूमि में खनिजों के खनन, खयाम, वेधन, खोवाई और खोज करने, निष्कासन, उन पर कार्य करने और उन्हें ठोने के सभी अधिकारों को अर्जित कर लिया है;

और राज्य सरकार प्राधिकारियों द्वारा किए गए अधिग्रहणीकरण के अनुसार ग्राम चोरधारा के बन्धन उरांव के पुत्र सर्वश्री एटवा उरांव, सोनुआ उरांव, पोका उरांव और सुधुवा उरांव के पुत्र मोक्षा उरांव भिक्षुआ उरांव की पत्नी मु० अनुष्ठा को, उक्त अधिनियम की धारा 13 के अधीन 1.40 एकड़ भूमि के बारे में हितबद्ध व्यक्ति पाया गया था और तदनुसार उक्त अर्जित भूमि के 1.40 एकड़ क्षेत्रफल के लिए प्रतिकर का निर्धारण उनके पक्ष में किया गया था;

और उक्त अर्जित भूमि के लिए संवेद्य प्रतिकर की रकम सहमति द्वारा नियुक्त नहीं की जा सकती क्योंकि प्रख्यापित प्रतिकर की रकम की पर्याप्तता के बिषय में विवाद है तथा इस प्रकार प्रख्यापित रकम को हितबद्ध व्यक्तियों ने अभ्यापति के साथ स्वीकार किया है;

अतः, अब, केन्द्रीय सरकार, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 14 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, जो हितबद्ध व्यक्तियों को संवेद्य प्रतिकर की रकम अवधारित करने के प्रयोजनार्थ एक अधिकरण सहित करती है जिसमें श्री चन्द्रशेखर सिंह, अपर जिला और सेशन न्यायाधीश रांची होंगे।

[फा० सं० 19/59/77-सी० एल० (ii)]

S.O. 3015.—Whereas in pursuance of the notification of the Government of India in the late Ministry of Steel, Mines and Fuel, Department of Mines and Fuel, No. S.O. 719, dated

the 20th March, 1959, made under section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government has acquired the lands measuring 897 bighas and the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 611 bighas in village Chordhara, Thana Ramgarh, District Hazaribagh;

And whereas Sarvashri Etwa Uraon, Sonua Uraon, Poka Uraon, sons of Bandhan Uraon, Mogha Uraon and son of Sudhuwa Uraon, Mest Jhanua, w/o Bhikhua Uraon of village Chordhara were found as persons interested for compensation for an area of 1.40 acres of lands under section 13 of the said Act in accordance with the authentication made by the State Government authorities and accordingly compensation for an area of 1.40 acres of the said acquisition was assessed in their favour;

And whereas the amount of compensation payable for the said acquisition could not be fixed by the agreement, there being a dispute as to the sufficiency of the amount of compensation offered, and the amount so offered has been accepted by the persons interested under protest;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 14 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby constitutes a Tribunal consisting of Shri Chandra Sekhar Singh, Additional District and Session Judge, Ranchi for the purpose of determining the amount of compensation payable to the persons interested.

[File No. 19(59)/77-CL. (ii)]

का०प्रा० 3016.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपानद्ध अनुसूची में वर्णित भूमि में कोयला अधिप्राप्त किए जाने की संभावना है;

अतः अब केन्द्रीय सरकार, कोयला वाले क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कोयले का पूर्वोक्षण करने के अपने आशय की सूचना देती है;

इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक का निरीक्षण सेंट्रल कोल फील्ड्स लिमिटेड (राजस्व अनुभाग) कार्यालय, दरभंगा हाउस, रांची या उपायुक्त का कार्यालय, रांची बिहार, या कोयला नियंत्रक का कार्यालय, 1 काउन्सिल हाउस, कलकत्ता में किया जा सकता है;

इस अधिसूचना के अन्तर्गत आने वाली भूमि में हितबद्ध सभी व्यक्तियों को उक्त अधिनियम की धारा 13 की उपधारा (7) में वर्णित सभी नक्शे, चार्ट और अन्य दस्तावेजों इस अधिसूचना के प्रकाशन की तारीख से 90 दिन के भीतर राजस्व अधिकारी, केन्द्रीय कोल फील्ड्स लिमिटेड, दरभंगा हाउस, रांची के पास भेजना चाहिए।

अनुसूची

सिरका कोलियरी विस्तारण दक्षिणी कर्णपुरा कोयला क्षेत्र जिला हजारीबाग, बिहार

आरंभ सं० राजस्व/31/78

तारीख 20-7-78

(पूर्वोक्षण के लिए अधिसूचित क्षेत्र)

क्रम सं०	ग्राम	थाना सं०	थाना सं०	जिला	क्षेत्रफल	टिप्पण
1.	मुन्दू	मांडू	39	हजारीबाग		भाग
2.	टोंगी	"	135	"		"
3.	सिरका	"	136	"		"

कुल क्षेत्रफल : 102.00 एकड़ (लगभग)
या 41.27 हेक्टेयर (लगभग)

सीमा वर्णन :

- क ख ग रेखाएं बुन्दू ग्राम से होकर जाती हैं।
- ग घ रेखा, ग्राम टोंगी और सिरका की सामान्य सीमा के एक भाग के साथ साथ जाती है।
- घ ङ रेखा, सिरका ग्राम से होकर जाती है (जो कि सिरका कोलियरी के अर्जित क्षेत्र की सामान्य सीमा का एक भाग है)।
- ङ च रेखा, सिरका और टोंगी ग्रामों से होकर जाती है।
- च छ रेखा, टोंगी और बुन्दू ग्रामों की सामान्य सीमा के एक भाग के साथ-साथ जाती है।
- छ ज क रेखाएं बुन्दू ग्राम से होकर जाती हैं और आरम्भिक बिन्दु "क" पर मिलती हैं।

[सं० 19/38/78-सी० एच०]

S.O. 3016.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein;

The plan of the area covered by this notification can be inspected at the Office of the Central Coalfields Limited, (Revenue Section), Darbhanga House, Ranchi, or at the Office of the Deputy Commissioner, Hazaribagh (Bihar), or at the Office of the Coal Controller, 1, Council House Street, Calcutta.

All persons interested in the land covered by this Notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said act to the Revenue Officer, Central Coalfields Limited, Darbhanga House, Ranchi, within 90 days from the date of publication of this notification in the Official Gazette.

THE SCHEDULE

Sirka Colliery Extn. South Karanpura Coalfield Distt.

Hazaribagh Bihar

Drg. No. Rev/31/78

Dated 20-7-78

(Area notified for prospecting)

Sl. No.	Village	Thana	Thana No.	District	Area	Remarks
1.	Bundu	Mandu	39	Hazaribagh	Part	
2.	Tongi	"	135	"	"	
3.	Sirka	"	136	"	"	
Total area :						102.00 acres (approx. or 41.27 hectares (approx))

Boundary Description :

- A-B-C- lines pass through village Bundu.
- V-D lines passes along the part common boundary of villages Tongi and Sirka.
- D-E line passes through village Sirka (which forms part common boundary of the acquired area of the Sirk a Colliery).
- E-F line passes through villages Sirka and Tongi.
- F-G line passes along the part common boundary of villages Tongi and Gundu.
- G-H-A lines pass through village Bundu and meets at starting point 'A'.

[No. 19 38 78-CL]

नई दिल्ली, 4 अक्टूबर, 1978

सूचिपत्र

का. आ. 3017.—भारत के राजपत्र, भाग 2, खण्ड 3, उपखण्ड (2) तारीख 15 अप्रैल, 1978 के पृष्ठ 1099 से 1112 पर प्रकाशित भारत सरकार के उर्जा मंत्रालय (कोयला विभाग) की अधिसूचना सं. का. आ. 1088, तारीख 7 अप्रैल, 1978 में :—

(1) पृष्ठ 1099 पर—

पैरा 3(ख) में "24801.333" के स्थान पर "4801.333" पढ़ें,

(2) पृष्ठ 1100 पर—

अनुसूची "क" में—

(क) "ग्राम दुल्लापुर में अर्जित किए जाने वाले प्लाटों की संख्याएं" शीर्षक के नीचे "35 पी" के स्थान पर "25 पी" पढ़ें,

(ख) "ग्राम दुखा में अर्जित किए जाने वाले प्लाटों की संख्याएं" शीर्षक के नीचे "99/1" के स्थान पर "99/1 पी" पढ़ें,

(3) पृष्ठ 1101 पर—

(क) "सीमा वर्णन" शीर्षक के नीचे "ग-घ रेखा" में पंक्ति 2 में, "192/1" के स्थान पर "192/1 क" पढ़ें,

(ख) अनुसूची "ख" में, क्रम सं. 16, ग्राम नराईबाड़ के सामने, "अभिधारी द्वारा धारित भूमि", शीर्षक के नीचे, "142.555" के स्थान पर "142.552" पढ़ें,

(4) पृष्ठ 1102 पर—

(क) "ग्राम गंवरा में अर्जित किए जाने वाले प्लाटों की संख्याएं," शीर्षक के नीचे

(1) "877" के स्थान पर "878" पढ़ें,

(2) "48 से 950", के स्थान पर "948 से 950", पढ़ें,

(3) "959/1, 959/4, 959 पी", के स्थान पर "959/1, 959/4, 959/9 पी" पढ़ें,

(ख) "ग्राम सांनपुरी में अर्जित किए जाने वाले प्लाटों की संख्याएं" शीर्षक के नीचे

(1) "27/1 थान", के स्थान पर "27/1 थान पढ़ें,

(2) "90" के स्थान पर "80" पढ़ें,

(3) "356/1, 356/4, के स्थान पर "356/1 से 356/4" पढ़ें,

(5) पृष्ठ 1103 पर—

(क) "ग्राम वाली में अर्जित किए जाने वाले प्लाटों की संख्याएं," शीर्षक के नीचे—

(1) "80/1, 89/3", के स्थान पर "89/1 से 89/3", पढ़ें:

(2) "214/9, 215" के स्थान पर "214/1, 214/2, 215" पढ़ें:

(3), "234/1, 234/3", के स्थान पर, "234/1 से 234/3" पढ़ें,

(4) "393/1 से 394/5", के स्थान पर "394/1 से 394/5", पढ़ें,

- (5) "469" के स्थान पर "469/1" पढ़ें;
- (6) "467/2 बी" के स्थान पर "497/2," पढ़ें;
- (ख) "ग्राम बरमट्टा में अर्जित किए जाने वाले प्लॉटों की संख्याएं", शीर्षक के नीचे—
- 181, "181/2", के स्थान पर "181, 182/1, 182/2", पढ़ें;
- (ग) "ग्राम पांडीपाणि में अर्जित किए जाने वाले प्लॉटों की संख्याएं" शीर्षक के नीचे—
- (1) "8 से 12" के स्थान पर "6 से 12" पढ़ें;
- (2) "38—37 पी", के स्थान पर "36—37 पी", पढ़ें;
- (3) "38 पी", के स्थान पर, "38 पी" पढ़ें;
- (4) "63 पी, 65 पी", के स्थान पर, "63 पी, 64 पी, 65 पी", पढ़ें;
- (घ) "ग्राम चुरेल में अर्जित किए जाने वाले प्लॉटों की संख्याएं", शीर्षक के नीचे—
- (1) "6/2—7—49/2-20-22 पी", के स्थान पर, "6/2-7-19/2-22पी", पढ़ें;
- (2) "29/4", के स्थान पर "28/4", पढ़ें।
- (6) पृष्ठ 1104 पर—
- (क) "ग्राम रिसदी में अर्जित किए जाने वाले प्लॉटों की संख्याएं", शीर्षक के नीचे—
- "86 पी से 89 पी", के स्थान पर "86 पी, 89 पी," पढ़ें।
- (ख) "ग्राम बरकट्टा में अर्जित किए जाने वाले प्लॉटों की संख्याएं", शीर्षक के नीचे—
- "146, 149", के स्थान पर "146 से 149," पढ़ें।
- (ग) "ग्राम दुर्गा में अर्जित किए जाने वाले प्लॉटों की संख्याएं", शीर्षक के नीचे—
- (1) "490", के स्थान पर "498" पढ़ें;
- (2) "687/1 से 687," के स्थान पर "687/1 से 687/3", पढ़ें;
- (3) "842, 849," के स्थान पर "842 से 849," पढ़ें;

(7) पृष्ठ 1105 पर—

- (क) "ग्राम दुर्गा में अर्जित किए जाने वाले प्लॉटों की संख्याएं", शीर्षक के नीचे—
- (1) "955 से 960" के स्थान पर "955 से 968" पढ़ें;
- (2) "986, 988/1" के स्थान पर "986, 987, 988/1" पढ़ें;
- (3) "1043/1 से 1043/4" के स्थान पर "1043/1 से 1043/3" पढ़ें;
- (ख) "ग्राम नराईबाद में अर्जित किए जाने वाले प्लॉटों की संख्याएं", शीर्षक के नीचे—
- (1) "221/2पी, 221/4पी," के स्थान पर 221/2पी, 221/3पी, 221/4पी," पढ़ें;
- (2) "361 से 368", के स्थान पर "361 से 367" पढ़ें;

- (3) "408/1 से 408/3," के स्थान पर "408/1 से 408/5," पढ़ें;
- (ग) "ग्राम बरपाली में अर्जित किए जाने वाले प्लॉटों की संख्याएं", शीर्षक के नीचे—
- (1) "471/1, 472," के स्थान पर "471/1, 471/2, 472/1 पढ़ें;
- (2) "471 से 481," के स्थान पर "473 से 481," पढ़ें;
- (3) "689/1 से 690/3" के स्थान पर, 690/1 से 690/3," पढ़ें;
- (घ) "ग्राम दुल्लापुर में अर्जित किए जाने वाले प्लॉटों की संख्याएं", शीर्षक के नीचे—
- "1/5" के स्थान पर "1/5पी" पढ़ें;
- (8) पृष्ठ 1105 पर—"समावर्णन (खनन अधिकार)", शीर्षक के नीचे—
- (क) "एम-एल" शीर्षक के नीचे पृष्ठ 1108 पर—
- (1) "ग्राम वाली", के स्थान पर "ग्राम पाली" पढ़ें;
- (2) पंक्ति 24 में, "175/1 से, ग्राम नराईबाद की प्लॉट सं. 470, 469, 467, 466, 444, 443/2, 438/2, 437/1, 353-352-351-350 से गुजरती हैं और बिन्दु "एल" पर मिलती हैं" के स्थान पर "175/1 से, ग्राम नराईबाद के प्लॉट सं. 241/2 से गुजरकर ग्राम भीठरा के प्लॉट सं. 470, 469, 467, 466, 444, 443/2, 438/2, 437/1, 353-352-351-350 से होकर बिन्दु "एल" पर मिलती हैं"
- (ख) "एल-के" के रेखा में—पंक्ति 3 में—
- "ग्राम नराईबाद," के स्थान पर, "ग्राम नराईबाद" पढ़ें;
- (ग) "जे-आई" रेखा में—पंक्ति 5 में—
- "118/21" के स्थान पर "1182/21" पढ़ें।

[सं. 19(14)/78-सी. एल.]

एस. आर. ए. रिजवी, निदेशक

New Delhi, the 4th October, 1978

CORRIGENDUM

S.O. 3017.—In the notification of Government of India, in the Ministry of Energy (Department of Coal) No. S.O. 1088 dated the 7th April, 1978, published at pages 1099 to 1112 of the Gazette of India, Part II, Section 3, sub-section (ii) dated the 15th April, 1978 :—

(1) at page 1107—

- (a) In Schedule 'A', Total area under the heading "Government land" for "hectare" read "hectares";
- (b) Under the heading "Plot nos. to be acquired in village Barpali" for "122-123P" read "121-123P";

(2) at page 1108—In Schedule "B" under the heading "Plot nos. to be acquired in village Geora"—

- (a) for 951/11" read "951/1";
- (b) for "1203/1 to 1203/1" read "1203/1 to 1203/3".

(3) at page 1109—Under the heading "Plot nos. to be acquired in village Padania"—

- (a) for "100, 1 to 100/4" read "100/1 to 100/4 ;
- (b) for "702/1" read "802/1";
- (c) for "857 to 759" read "857 to 859".

(4) at page 1110—

(a) Under the heading "Plot nos. to be acquired in village Pali"—

- (i) for "389/4" read "368/4";
- (ii) for "497/1" read "497/1P";
- (iii) for "497/2P" read "497/2".

(b) Under the heading "Plot nos. to be acquired in village Durpa"—

- (i) for "191/2, 191/2" read "191/1, 191/2";
- (ii) for "801/2, 802/2" read "801/1, 801/2";
- (iii) for "806 to 908" read "806 to 808".

(5) at page 1111—

(a) Under the heading "Plot nos. to be acquired in village Naraibad"—

- (i) for "1P48/1" read "148/1";
- (ii) for "241/2, 241/1" read "241/2, 242/1";
- (iii) for "411/2P, 417/1P" read "411/2P, 412P, 417/1P";
- (iv) for "500/1 to 500/4" read "500/1 to 500/3".

(b) Under the heading "Plot nos. to be acquired in village Barpali"—

- (i) for "415/2, 415/2" read "415/2";
- (ii) for "497 to 508" read "499 to 508";
- (iii) for "544/1 to 5444/4" read "544/1 to 544/4";
- (iv) for "765 to 684" read "675 to 684".

(c) Under the heading "Boundary Description (Mining Rights) in line M-L"—

- (i) for "of village Zeora" read "of village Geora";
- (ii) for plot no. "185/4" read "184/5".

(6) at page 1112—Under the heading "Boundary description (Mining Rights) in Line L-K"—for plot no. "757" read "75".

[No. 19(14)/78-CL]

S. R. A. RIZVI, Director

MINISTRY OF LABOUR

New Delhi, the 29th September, 1978

S.O. 3018.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta in the industrial dispute between the employers in relation to the Management of Messrs Oil & Natural Gas Commission, Eastern Region (Assam), and their workmen, which was received by the Central Government on the 19th September, 1978.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 21 of 1976

PARTIES :

Employers in relation to the management of Messrs Oil and Natural Gas Commission, Eastern Region, Nazira (Assam).

AND

Their Workmen.

APPEARANCE :

On behalf of—Sri T. K. Jagadish, Advocate with Employers Sri D. Chattopadhyay, Asst. Industrial Relation Officer.

On behalf of—Sri S. Roy, Advocate Workmen

STATE : Assam

INDUSTRY : Oil & Gas

AWARD

The Government of India, Ministry of Labour by their Order No. L-30012/5/75, DIV(B) dated 3rd June, 1976, referred an industrial dispute existing between the employers in relation to the management of Messrs Oil and Natural Gas Commission, Eastern Region, Nazira (Assam) and their workmen, to this Tribunal, for adjudication.

2. The main question that arises for decision in the reference is whether the removal of a Motor Truck Driver and a Khalasi from service is justified ? The reference reads as :

"Whether the action of the management of Messrs Oil and Natural Gas Commission, Eastern Region, Nazira (Assam) in removing from service Sara-Shri Deburam Barua, Motor Truck Driver and Mubarak Ali, Khalasi with effect from 13-3-1974 vide Order No. V&D/4/71-Vig/789, dated 13-3-1974 is justified ? If not, to what relief are the said workmen entitled ?"

3. On July 9, 1971 the workmen concerned, namely Deburam Barua, Motor Truck Driver and Mubarak Ali, Khalasi, in the employment of the Opposite party Oil and Natural Gas Commission were proceeding on duty to Sibsagar in Opposite Party's Truck No. ASI-8674. At about 4.30 P.M. the truck reached the village Goral. There the driver stopped the truck in front of a house. It is alleged that the Khalasi was taking out diesel oil from the tank with a plastic hose pipe and pouring it into a kerosine tin while the driver was looking on. There were two kerosine tins at the site one of which was being filled up by the khalasi with diesel oil while the other tin was lying empty. When the tin was being filled up, some members of the village defence party under the leadership of their Secretary, Abdul Kadir, appeared on the scene, saw the Khalasi taking out the oil, enquired into the matter and asked the driver and the khalasi not to leave the spot pending arrival of responsible officers of the Oil and Natural Gas Commission.

4. On receipt of information, K. Hazarika, a Security Officer accompanied by U. C. Mech, another officer of the Commission, left their office at Nazira and proceeded to Goral. On arrival, they made an investigation into the matter. They took possession of the kerosine tins one of which was partly filled up with diesel oil and the plastic hose pipe. They duly made a seizure memo and had it signed by witnesses. Abdul Kadir made a report of the occurrence in writing, had it countersigned by three persons who were alleged to have been present at the site at the time of the khalasi taking out the diesel oil. The report was handed over to Hazarika. The driver and the khalasi made statements in confession of the commission of misconduct. Those statements were recorded by Hazarika in English and explained in Assamese in the presence of U. C. Mech. The driver and the khalasi signed their respective statements.

5. Thereafter on 12th July, 1971 Karnail Singh, the Security cum-Fire Officer, submitted a report of the occurrence. On the basis of that report the driver and the khalasi were suspended and the Commission issued a memorandum dated 19th August, 1971 along with statements of allegations and charges which read as follows :

"STATEMENT OF ALLEGATIONS AGAINST S/SHRI DEBURAM BARUA, MT.D. (U/S) AND MUBARAK ALI KHALASI (U/S)

It has been brought to notice that S/Shri Deburam Baruah, M. T. Driver and Mubarak Ali, Khalasi were detailed with Commissioner's truck No. ASI-8674 for duty at Galeki drill sites A & B on 9-7-71 at about 8.30 a.m. for transportation of mobil oil, Manila rope and waste cotton, etc., from Naupukhuri Stores. On their way back from Galeki to Sibsagar, they stopped the truck at Garali Gohain Gaon near a house at about 3.45 p.m. and took two empty big tins from the house-

owner and started to pour diesel oil in one of the tins from the tank of the truck with a plastic pipe. While 1/4 portion of the tin was filled-in, the following persons came to the spot and caught them red-handed and seized the tins and the pipe.

- | | |
|--------------------------|---|
| 1. Sri Abdul Qadir | Secy. Village Defence |
| 2. Sri Biren Mech. | Party, Garali Gohain Gaon |
| 3. Sri Monram Borgohain. | } Village Defence Party & inhabitants of Gar Ali Gohain Gaon. |
| 4. Sri Haruram Mech. | |

The Secretary of the Village Defence Party, reported the Matter to the Security Officer, ONGC, Nazira. Immediately S/Sri U. C. Mech, Security Officer Gd. III and K. Hazarika, Security Officer Grade IV, Nazira rushed to the spot and got S/Shri Baruah and Ali released and the above mentioned monetary benefit.

Both S/Sri Baruah and Ali have admitted before the said Security Officers vide their statements dt. 9-7-71 that the house-owner was asking for diesel oil on payment and accordingly, they were taking out diesel oil from the tank of the truck with the sole intention of selling and thereby to gain monetary benefit.

The above action on the part of S/Sri Baruah and Ali constitutes gross misconduct and therefore they are liable for disciplinary action under Reg. 27 of ONGC (CDA) Regulations 1964.

Sd/- Illegible

16-8-71

General Manager.

STATEMENT OF CHARGES AGAINST S/SHRI DEBURAM BARUA, MT. D. (U/S). AND MUBARAK ALI, KHALASI (U/S)

S/Shri Deburam Baruah, M. T. Driver and Mubarak Ali, Khalasi are liable for disciplinary action under Reg. 27 of ONGC(CDA) Regulations 1964 on the charge of gross-misconduct on account of taking out diesel oil from the tank of Commission's truck No. ASJ-8674 on 9-7-71 at Garali Gohain Gaon with the sole intention of selling for illegal monetary benefit.

Sd/- Illegible

16-8-71

General Manager.

LIST OF DOCUMENTS

1. Report of SCFO dated 12-7-71
2. Their statements dated 9-7-71.
3. Report dated 9-7-71 lodged by Secy. Village Defence Party, Goral Gohain Gaon."
6. The driver and the khalasi submitted their statements in defence. Thereafter an enquiry was held by Sri A. S. Aiyer in the presence of the workmen concerned. Sri S. L. Das, an employee of the Commission who was also the Secretary of the then recognised trade union, represented the workmen at the enquiry at their request. The opposite party, Oil and Natural Gas Commission, examined six witnesses of whom only four were cross-examined on behalf of the workmen. The workmen did not depose nor did they examine any witness.
7. By a Report dated October 24, 1972 the Enquiry Officer found both the workmen guilty of the charges brought against them.
8. The General Manager accepted the finding of the Enquiry Officer and provisionally concluded that both of them were not fit persons to be retained in the service of the Commission and proposed to impose the penalty of removal from service in either case. By a memorandum dated 23rd July, 677 GI/78—3

1973 he offered the delinquent workmen an opportunity to make representations against the proposed penalty. The General Manager, after considering those representations decided by an order dated March 13, 1974 to impose upon them the penalty of removal from service. On 20th May, 1974 the workmen filed an appeal against that order before the Chairman of the Commission. The said appeal was rejected. Thereafter at the instance of the union, conciliation proceedings were held but they ended in failure. Thereupon the dispute was referred to this tribunal for adjudication.

9. An issue was raised in this reference on the question of the validity of the domestic enquiry. Sri Justice E. K. Moidu, my predecessor-in-office by an Order dated June, 13, 1977 held that the enquiry was properly held and was valid. He also held that the order of suspension passed on 12th July, 1971 which was challenged before him was also valid. The said order is annexed hereto as a part of this Award and is marked with the letter "A".

10. Learned advocate appearing on behalf of the workmen submitted that by insertion of Section 11A in the Industrial Disputes Act, the tribunal has been vested with the power to reassess the evidence and examine whether the conclusion arrived at in the domestic enquiry is justified or not. If the conclusion is not justified, the tribunal is free to come to a fresh finding on the charge of misconduct. He relied on a passage in the judgement of the Supreme Court in the case of Workmen of Firestone Tyre and Rubber Company vs. Management, reported in 1973 (1) LLJ 278 at page 295. There Vaidialingam, J, speaking for the Court observed :

"...the Tribunal is now clothed with the power to reappraise the evidence in the domestic enquiry and satisfy itself whether the said evidence relied on by an employer established the misconduct alleged against a workman. What was originally a plausible conclusion that could be drawn by an employer from the evidence, has now given place to a satisfaction being arrived at by the tribunal that the finding of misconduct is correct. The limitations imposed on the powers of the Tribunal by the decision in Indian Iron & Steel Co. Ltd. case, can no longer be invoked by an employer. The Tribunal is now at liberty to consider not only whether the finding of misconduct recorded by an employer is correct, but also to differ from the said finding if a proper case is made out. What was once largely in the realm of the satisfaction of the employer, has ceased to be so, and now it is the satisfaction of the Tribunal that finally decides the matter."

In this connection, learned advocate also relied on a Division Bench judgement of the Andhra Pradesh High Court, The District Manager A.P.S.R.T.C. Jaggaiah v Labour Court Guntur, 1978 Labour & Industrial Cases, Volume II, p. 359.

11. On the day of occurrence a report was submitted by Abdul Kadir, Secretary and Konram Burgohain, the President of the Village Defence Party. That report is in the nature of a First Information Report. It stated that the truck stopped in front of the house of Moinul Haque Chowdhury at about 4.30 p.m. One of the persons got down from the vehicle and fetched two empty kerosine tins and commenced filling up one of them through a pipe.. On suspicion, the signatories to the Report enquired into the matter and sent a message to U. C. Mech, Security Officer, O. N. G. C. Nazira for information. It is also stated in the report that two tins, one of which was partly filled up with diesel oil and also the pipe were seized by them. There is an endorsement that those materials were seized by Abdul Kadir, B. N. Mech and Haruram Mech who subscribed their signatures. It may be mentioned that all these persons gave evidence before the Enquiry Officer. The other contemporaneous document is the seizure memo prepared and signed by K. Hazarika, the Security Officer, Abdul Kabir, Konram Burgohain and B. N. Mech signed the memo as witness. On 12th July, 1971 Karnal Singh, the Security-cum-Fire Officer reported the incident on the basis of information available to him and recommended initiation of proceedings against the delinquent workmen.

12. In reply to the charges the defence was taken that the truck stopped "in order to pour water in the engine of the vehicle". The khalasi was going to collect water from a neighbouring steam. The Secretary of the Defence party

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suspected that the tin was brought for drawing diesel oil from the vehicle. He and his associate detained the truck. It was also stated that all this was done with the object of extorting money from the delinquents. The oil in the tin was planted.

13. Statements of confession were made on the date of occurrence by the driver as also by the khalasi. The statements were recorded by K. Hazarika, the Security Officer. U. C. Mech, the other officer made an endorsement to the effect that the statements were made in his presence. These is also an endorsement that the statements were explained in Assamese by K. Hazarika to the delinquent workmen.

14. Before the Enquiry Officer, six witnesses were examined on behalf of the Commission. They were U. C. Mech, K. Hazarika and four local witnesses—Konram Burgoahain, Haruram Mech, Biren Mech and Abdul Kadir. It may be added that U. C. Mech and Haruram Mech were not cross-examined on behalf of the defence. The delinquent workmen chose not to adduce any evidence at the domestic enquiry.

15. Before Sri Justice Moidu evidence was given by Sri Mobarak Ali, khalasi and by A. S. Aiyer, Enquiry Officer for determination of one question alone, namely, whether the domestic enquiry was validly held. Even then a portion of the evidence of Mobarak Ali is relevant to the case as a whole, as I shall indicate later.

16. As the case can be disposed of on the basis of other evidence, I do not propose to rely on the confessions, particularly when the enquiry officer himself has not relied upon them in coming to the conclusion he did. There is some dispute as to the place where the confessions were recorded. Hazarika's evidence is that he recorded them at the office at Nazira. In their defence statements the delinquent workmen stated that the confessions were made under duress and were recorded at the residence of Abdul Kabir, Secretary of the Village Defence Party. Be that as it may, the fact remains that the statements were recorded by K. Hazarika, Security Officer in the presence of U. C. Mech, another officer. It is not to be expected that in the presence of responsible officers of the Oil and Natural Gas Commission, confessions could be procured under duress. It was not suggested to Hazarika in course of his examination that he recorded the confessions incorrectly or that he did not explain what he recorded. As I have already stated, there is an endorsement on the statement that Hazarika translated the statement into Assamese. Although I am making a passing reference to the confessions, I make it clear that my findings are not based on the confessions. In fact there is better evidence in this case to go by. Abdul Kadir, Haruram Mech and Biren Mech have given evidence that they, in fact, saw the khalasi draining diesel oil out of the tank of the truck through a pipe while the driver was looking on. The case made in the defence statements that members of the Village Defence party demanded money or that they planted diesel oil in the tin was not pursued in the proceedings held before the Enquiry Officer. It is not a little strange that in course of cross-examination of the witnesses no suggestion was made that money was demanded or that the oil was planted in the tin. I do not understand why members of the Village Defence party or for that matter, the people of the village should for no reason at all, try to implicate the driver and the khalasi in an offence which they did not commit. In his evidence before my predecessor Sri Justice Moidu, Mobarak Ali admitted in cross-examination that he had no enmity with the three witnesses from Gorali village who deposed at the enquiry on behalf of the Commission. He did not suggest that the witnesses demanded money from either of the concerned workmen. The evidence of Haruram Mech, Biren Mech and Abdul Kadir has not been shaken at all in cross-examination. Their evidence is that the delinquent workmen were caught red-handed by them in the act of commission of the misconduct. They have given direct evidence on the question of the participation of the driver and khalasi in a common act. Konram Burgoahain arrived at the place of occurrence shortly after the incident. His evidence is also of some assistance.

17. The learned Advocate appearing on behalf of the workmen made some adverse comments on the Enquiry Report. He strongly relied on a statement made in paragraph 13 of the Enquiry Report that, "Insofar as the employees are concerned it may be stated that no direct and conclusive evidence of the transaction has been established." The statement was made by the Enquiry Officer in the context of the question of sale of diesel oil. The Enquiry Officer pointed out that the Security officer of the Commission failed to interrogate the

employees to find out the actual number of persons alleged to have offered to enter into a deal with the employees. The Enquiry Officer further stated, "It is possible that the Security Officers were either afraid to go into such details or they feared that the would not get the evidence required for the case". It is true that if confessions are to be ignored, and I have ignored them for the purpose of decision in this case I must hold that there is no evidence that the delinquent workmen entered into any transaction of sale. But if it transpired on a fair and proper consideration of the evidence on record that the delinquent workmen were draining out diesel oil into an empty kerosine tin, the conclusion is irresistible that they were doing so with the object of sale of the oil. That is a necessary inference which in my opinion any court or Tribunal is obliged to draw in the facts and circumstances of this case.

18. Mr. S. Roy, learned Advocate appearing on behalf of the workmen, drew my attention to paragraph 15 of the Report where the enquiry officer has stated that he had to rely on direct evidence for projecting his conclusion. The evidence on the commission of the misconduct is direct as it has been testified by eye witnesses and there is no valid reason why their testimony should be rejected.

19. Mr. Roy also relied on a statement in the Enquiry Report which reads, "If the driver had stopped the vehicle near a tea shop or a water tank or a pool for taking coolant water for the truck or for any other natural reasons these still could be examined. If such reasons prompted the driver to stop the vehicle these reasons would have been significantly vindicated by their action after stopping the vehicle." The Enquiry Officer, it appears, overlooked the fact that the concerned workmen in their reply to the charge stated that they had stopped the vehicle with the object of taking water. There is also the evidence of Biren Mech that there was a river in the vicinity of the place of occurrence. The Enquiry Officer however did not express the opinion that stopping near a watering place was by itself sufficient to establish that the vehicle had stopped for taking water. He merely suggested that even then the conduct of the delinquent workmen had to be consistent with the object of stopping the vehicle.

20. Learned Advocate for the workmen also relied on certain inconsistencies in the evidence. Those were with regard to the number of persons assembled, minor discrepancies in the account of the occurrence and petty inconsistencies in narration. The total impact of these discrepancies or inconsistencies is not such as to destroy or even impair the character of the entire body of the evidence which is overwhelmingly in favour of the Commission's case. In any event, apart from the findings of the Enquiry Officer, the tribunal which has been invited to assess the evidence afresh is of the opinion that the finding of the Enquiry Officer is amply justified.

21. On the question of punishment, I am of opinion that there is no case for interference by the tribunal in the facts and circumstances of the case. Learned advocate commented on certain infirmities of fact and law in the working papers prepared by an officer of the department (Exts. M-6 and M-9). The working papers appear to have been prepared after the Enquiry Officer made his Report for the use of the General Manager. The General Manager has however categorically stated in his order dated 13th March, 1974 that in passing the order, he took into account the defence of the delinquent workmen. It does not appear from the order that he relied on the notes prepared by the officer in Exts. M-6 and M-9. The delinquent workmen have been found guilty of an act of gross misconduct which involved moral turpitude. They have been awarded not the extreme punishment of dismissal from service which is ordinarily regarded as disqualification for future employment, but a milder penalty of removal from service which is not regarded as a disqualification for future employment. The punishment has been imposed in terms of Regulation 25 of the Oil and Natural Gas Commission (Conduct, Discipline and Appeal) Regulation, 1964.

22. Learned Advocate appearing on behalf of the workmen pointed out, that their service records have hitherto been clean. The penalty, however, is not such as to debar them from future employment. I have taken into consideration the fact that it should not be too difficult for a motor truck driver or a khalasi to secure alternative employment. On an anxious consideration of the factors relevant on the question of penalty, I am of opinion that the penalty imposed by the Oil and Natural Gas Commission should stand.

23. In the result, I find that the action of the management of Oil and Natural Gas Commission, Eastern Region, Nazira (Assam) in removing from service Sri Deburam Darua, Motor Truck Driver and Mobarak Ali, Khalasi with effect from 13th March, 1974 is justified. I further hold that the workmen are not entitled to any relief and I award accordingly.

Dated, Calcutta, The 14th September, 1978.

S. K. MUKHERJEA, Presiding Officer

ANNEXURE 'A'

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

Reference No. 21 of 1976

Parties :

Employers in relation to the management of Messrs Oil and Natural Gas Commission, Eastern Region, Nazira (Assam).

AND

Their workmen.

APPEARANCE :

On behalf of Employers—Sri T. K. Jagadish, Advocate.

On behalf of Workmen—Sri S. Roy, Advocate.

ORDER

Dated, 13th June, 1977.

The Government of India Ministry of Labour, by their Order No. L-30012/5/75-D. IV (B) dated 3rd June, 1976, sent the following reference to this Tribunal for adjudication:

"Whether the action of the management of Messrs Oil and Natural Gas Commission, Eastern Region, Nazira (Assam) in removing from service Sarva-Shri Deburam Barua, Motor Truck Driver and Mobarak Ali, Khalasi with effect from 13-3-1974 vide Order No. VID/4/71-Vig/789 dated 13-3-1974, is justified? If not, to what relief are the said workmen entitled?"

2. The first question arises in this reference is as to the validity of the domestic enquiry. The management examined 6 (six) witnesses in support of the charge against the workmen. Deburam Barua and Mobarak Ali, were the motor truck driver and khalasi respectively. They were deputed for duty at Galeki drill sites on 9-7-71 at about 8.30 a.m. for transportation of mobil oil Manila, rope and waste cotton, etc., from Noapukari Stores. On their way back from Galeki to Sibsaagar, they stopped the truck at Garali Gohain Gaon near a house at about 3.45 p.m. and took two empty big tins from the house-owner and started to pour diesel oil in one of the tins from the tank of the truck with a plastic pipe. While 1/4th portion of the tin was filled in the members of the village defence party who were witnesses to the case came to the spot and caught hold of them red-handed and seized the tins and the pipe. On information one Hazarika, Security Officer proceeded to the spot along with another Security Officer U. C. Mech. Hazarika prepared a seizure memo in respect of the tins and the plastic pipe. It is part of the record in the enquiry. Both Barua and Mobarak Ali made a confessional statement before Hazarika. On the basis of the report Ext. M-5 dated 12-7-71 made by one Karnial Singh, another Security-cum-Fire Officer proceedings were drawn up against the workmen concerned in the case alleging theft as a misconduct. The Joint Manager of the company suspended both the workmen under Ext. M-5(a) suspension order dated 12th July, 1971. Thereafter Sri A. S. Iyer was appointed as the enquiry officer. He conducted the enquiry beginning from 10th January, 1972. On 24th January, 1972 U.C. Mech was examined. On 2nd February, 1972 Konram Gohain, Haruram Mech, Birem Mech and Abdul Kadir were examined. On 23rd February, 1972 Hazarika was examined on behalf of the management; he was also cross-examined. The enquiry officer recorded a finding that both the workmen were guilty

of the charge and accordingly the General Manager by his order dated 13th March, 1974 (Ext. M-5) removed both the workmen from service.

3. The first question that has to be considered is whether the workmen had the opportunity to cross-examine the witnesses in the case. It is admitted that all the witnesses of the company had been cross-examined by the agent of the workmen except U. C. Mech and Haruram Mech. In the case of U. C. Mech the record shows that the workmen had given him up as they did not want to cross examine him. But it does not appear from the records of the case that the company produced Haruram Mech for cross-examination. The case of the company is that the workmen along with their agent were present throughout the enquiry and that the allegation that they were not present on 2-2-72 when Haruram Mech and examined in-chief was not correct. The workmen would have it that enquiry officer took the examination in-chief of the four eye witnesses (Konaram Gohain, Haruram Mech, Birem Mech and Abdul Kadir) in their absence and without notice to them. It does not appear from the records of the case that the enquiry officer had taken the initials of either the workmen or that of their agent in the document of their presence at the enquiry on 2-2-1972 though there were other indications in the record to show that the workmen were present at the time. The cross-examination of Abdul Kadir and Birem Mech revealed that when they were being cross-examined the agent of the workmen had the previous deposition of those witnesses in his hands. Certain questions were put to those witnesses indicated that they were being cross-examined with the help of their previous statements. So, there was intrinsic evidence in the proceeding to show that the workmen would have been present before the enquiry officer on 2-2-1972 and that they would have participated in the enquiry. It is clear that without the copy of the deposition of the witnesses examined on 2-2-72, the agent of the workmen would not be in a position to cross-examine Hazarika on 22-3-1972, Abdul Kadir on 17-5-1972 and Birem Mech and Konaram Gohain on 31-7-1972. One of the workmen examined as WW-1 admitted that they were present at the enquiry throughout. That was an indication that they were present at the enquiry even on 2-2-1972. The non-cross-examination of Haruram Mech would not in any manner materially affect the case of the workmen as it did not prejudice their case at all. There was no indication in the finding arrived at by the enquiry officer that he had relied upon the evidence of Haruram Mech to come to the conclusion that the workmen are guilty of the charge. As a matter of fact the story which was spoken of by the remaining three witnesses were similar to the story which Haruram Mech gave before the enquiry officer on 2-2-1972. So the prosecution was not bound to consider the evidence of Haruram Mech and the case of the company against the workmen could be appreciated in the light of evidence of the remaining three eye witnesses. On this ground I have to hold that the examination of witness on 2-2-1972 was made by the enquiry officer in the presence of the workmen and their agent and that the failure of the company to produce Haruram Mech for cross-examination will not in any manner affect or prejudice the case of the workmen.

4. I find no ground to accept the workman's case that the enquiry officer did not summon their witnesses after the examination of the witnesses of the company. It was true that they mentioned the names of the witnesses in their explanation, Ext. M-2 & M-2(a) which were furnished by them as an answer to the charge contained in Ext. M-1. But the enquiry officer was not bound to summon those witnesses. It was true he summoned the company's witnesses by issuing notices to them. That does not mean that the enquiry officer had a similar duty to summon the defence witnesses. There is nothing which prevented the workmen producing their own witnesses before the enquiry officer. It does not appear from the records that the agent or the workmen made any application or any oral prayer to the enquiry officer for issuing summons to their witnesses. There was no case that those witnesses were in the custody or the control of the company. On the other hand, soon after the enquiry was over the case was adjourned for argument and after sometime the agent of the workmen filed a written argument. There was nothing in that written argument to suggest that the enquiry officer failed in his duty to summon defence witnesses. So, it cannot be said that there was any failure of principle of natural justice in the instant case in as much as the enquiry officer failed to summon the defence witnesses.

5. It has been pointed out that they had no opportunity to examine the material object and documents in the case. The material object and documents were placed before the enquiry officer. They had already been referred to in the charge. The material objects were seized under the seizure memo dated 9-7-1971. The finding by the enquiry officer shows that both the material objects and the documents were kept and exposed for scrutiny during the enquiry. There is nothing to show that the workmen had no access to those exhibits and material objects. I find the allegation in this regard cannot be accepted.

6. It was argued that the enquiry officer was biased against the workmen. There is absolutely no ground to accept this contention. The enquiry officer was the Principal of a Technical School attached to the Commission. He had no quarrel with the workmen. He should be regarded as an independent person. But he was not well versed with the procedure of enquiry. That does not mean that he did not apply his mind to come to the conclusion in the case as regards the charges levelled against the workmen. He had examined the evidence in the case. The mere fact that he did not summon defence witness could not be regarded as a ground to hold that he had shown any bias attitude against the workmen.

7. There were two confession statements made by both the workmen on 9-7-1971. In these statements they had more or less confessed the guilt. Sri Hazarika who recorded the confession had given evidence in support of it. The workmen had no case that they did not make a confession statement. On the other hand, they stated in their explanation Exts. M-2 and M-2(a) that the confessional statement was taken from them and that Hazarika obtained their signature thereon. But their contention towards the confessional statement was that it was taken under duress and threat. But no evidence had been let in by the workmen to prove that the confessional statement was taken under those circumstances. The Enquiry officer did not rely upon the confessional statement as such for coming to his conclusion. On the other hand, he had discussed the entire evidence. He was satisfied from the evidence on record that the charge levelled against the workmen had been made out. I find no ground to hold that his conclusion is perverse or that the finding was arrived at without evidence. The bias set up by the workmen therefore does not hold good.

8. The last point raised by the workmen was that the entire proceeding is hit because of the management's failure to adhere to the order in Ext. M-16 dated 10th October, 1971. That was an order passed by the General Manager under Regulation No. 29 of the Oil and Natural Gas Commission (Conduct, Discipline and Appeal) Regulation 1964 dated 5/12/1964. It is provided in Ext. M-16 that the disciplinary proceedings against two workmen shall be taken in a joint proceeding; that General Manager shall be the disciplinary authority for the purpose of joint proceeding. And he shall be competent to impose penalties as per Regulation No. 25 and that procedure laid down in Regulation 27 shall be followed. It is contended on behalf of the workmen that after Ext. M-16 notice it was not competent for the Joint Manager to suspend the workmen on the basis of the order contained in Ext. M-5(a) dt. 12-7-1971. Ext. M-5(a) suspension order was passed under Regulation No. 24 of the aforesaid Commission's Regulation. Regulation No. 24 provides that the appointing authority or any authority to which it is subordinate or any other authority empowered by the Commission to impose a penalty specified in Regulation 25 may place an employee of the Commission under suspension. So, Regulation 24 has nothing to do with the disciplinary proceedings contained in Ext. M-16 which was passed under Regulation 29. The Joint Manager is also the competent authority under Regulation 24 to pass an order of suspension. The order of suspension was passed in this case on 12-7-1971 where as the order as per Ext. M-16 was passed in October, 1971. Ext. M-16 order will have no retrospective effect to take away the right of suspension conferred on the Commission under Regulation No. 24. Since the provision contained in Regulation 24 was enforced at the time of the suspension which was in force then, the order of suspension passed in the case had to be accepted as valid. The subsequent appointment of the General Manager as the disciplinary authority will not in any manner affect the suspension order passed on 12-7-1971 I find the suspension order as valid. No other valid objection has been taken against the domestic enquiry.

9. In the result, I find that the enquiry is valid and the case will be posted to some other date for hearing on merits.

E. K. MOIDU, Presiding Officer

13-6-1977.

[No. L-30012/8/75-D. IVB/D. III B.]

R. KUNJITHAPADAM, Under Secy.